MEETING
STATE OF CALIFORNIA
AIR RESOURCES BOARD

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

THURSDAY, JULY 22, 2010
9:00 A.M.

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APPEARANCES

BOARD MEMBERS

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Dr. John R. Balmes
Ms. Sandra Berg
Ms. Doreene D'Adamo
Ms. Lydia H. Kennard
Mr. Ronald O. Loveridge
Mrs. Barbara Riordan
Mr. Ron Roberts
Dr. Daniel Sperling
Dr. John Telles
Mr. Ken Yeager

STAFF

Mr. James Goldstene, Executive Officer
Ms. La Ronda Bowen, Ombudsman
Mr. Tom Cackette, Chief Deputy Executive Officer
Mr. Bob Fletcher, Deputy Executive Officer
Ms. Ellen Peter, Chief Counsel
Ms. Lynn Terry, Deputy Executive Officer
Ms. Lori Andreoni, Board Clerk
APPEARANCES CONTINUED

STAFF

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

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

ALSO PRESENT

Ms. Diane Bailey, NRDC

Mr. Tim Carmichael, California Natural Gas Vehicle Coalition

Mr. Hank de Carbonel

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

Mr. Greg Knapp, Lehigh Hanson, Inc.

Mr. Derrick Walker, Environmental Defense Fund
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09:12:08  CHAIRPERSON NICHOLS: Good morning, ladies and gentlemen. Welcome to the July 22nd public meeting of the Air Resources Board.

09:12:17  The meeting will please come to order, and we will begin the meeting by reciting the Pledge of Allegiance.

09:12:25  (Thereupon the Pledge of Allegiance was Recited in unison.)

09:12:50  CHAIRPERSON NICHOLS: Thank you.

09:12:56  The clerk will please call the roll.

09:12:56  BOARD CLERK ANDREONI: Dr. Balmes?

09:12:55  BOARD MEMBER BALMES: Here.

09:12:56  BOARD CLERK ANDREONI: Ms. Berg?

09:12:58  BOARD MEMBER BERG: Here.

09:12:58  BOARD CLERK ANDREONI: Ms. D'Adamo?

09:13:00  BOARD MEMBER D'ADAMO: Here.

09:13:00  BOARD CLERK ANDREONI: Ms. Kennard?

09:13:01  BOARD MEMBER KENNARD: Here.

09:13:00  BOARD CLERK ANDREONI: Mayor Loveridge?

09:13:01  BOARD MEMBER LOVERIDGE: Here.

09:13:02  BOARD CLERK ANDREONI: Mrs. Riordan?

09:13:03  BOARD MEMBER RIORDAN: Here.

09:13:04  BOARD CLERK ANDREONI: Supervisor Roberts?

09:13:05  BOARD MEMBER ROBERTS: Here.
09:13:06 1 BOARD CLERK ANDREONI: Professor Sperling?
09:13:07 2 BOARD MEMBER SPERLING: Here.
09:13:09 3 BOARD CLERK ANDREONI: Dr. Telles?
09:13:10 4 BOARD MEMBER TELLES: Present.
09:13:11 5 BOARD CLERK ANDREONI: Supervisor Yeager?
09:13:13 6 BOARD MEMBER YEAGER: Here.
09:13:14 7 BOARD CLERK ANDREONI: Chairman Nichols?
09:13:16 8 CHAIRPERSON NICHOLS: Here.
09:13:17 9 BOARD CLERK ANDREONI: Madam Chair, we have a
09:13:18 10 quorum.
09:13:19 11 CHAIRPERSON NICHOLS: Thank you very much.
09:13:21 12 And welcome all, especially to those who have
09:13:23 13 descended from the mountaintop to be with us, otherwise
09:13:27 14 come back from vacation. It's great to have you all here.
09:13:34 16 I think most of the people I see in the audience
09:13:36 17 are regulars here, but we are required to give you a
09:13:41 18 couple of notices.
09:13:42 19 If you want to testify, we appreciate it if you
09:13:44 20 fill out a speaker card in advance. And the Board will
09:13:46 21 impose a three-minute limit. And we appreciate it if you
09:13:50 22 submit your written testimony and just give us your
09:13:52 23 comments in your own words without reading from your
09:13:56 24 written remarks.
09:13:57 25 And we also want to make sure that everybody
knows where the exits are. They are at the back of the room here. If there is a fire drill or a fire alarm that we hear, we need to evacuate the room, go down the stairs, and out of the building until we get the all-clear signal.

We have a short meeting this morning, but a couple of really important items. So I'd like to get started.

And we will begin with the status report on new U.S. EPA requirements for monitoring near roadways. This is just an informational item, but it's something that I think the Board members need to be aware of.

And then we'll hear the proposed regulation for energy efficiency and co-benefits assessment at large industrial facilities, followed by an update on the Western Climate Initiative and comments from Board members as well as public comment. And then we will adjourn for lunch. Okay.

So we'll start with the status report on the EPA requirements for monitoring. And our Executive Officer will introduce this item.

EXECUTIVE OFFICER GOLDSTENE: Thank you, Chairman Nichols.

U.S. EPA is in the process of reviewing the adequacy of all federal air quality standards. In January this year, they issued a revised NO2 standard. In this
I'd like to turn this over now to Marcy Nystrom of the Planning and Technical Support Division to make the presentation. Marcy.

(Thereupon an overhead presentation was presented as follows.)

STAFF AIR POLLUTION SPECIALIST NYSTROM: Good morning, Chairman Nichols and members of the Board.

Today, I'll be talking about the new federal nitrogen dioxide standard. As Mr. Goldstene said, U.S. EPA adopted the standard earlier this year along with first time requirements for near-roadway monitoring.

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STAFF AIR POLLUTION SPECIALIST NYSTROM: In the first part of the presentation, I'll provide some background information on the revised standard. I'll also talk about the studies used to set the levels.

Next, I'll discuss the new monitoring requirements that ARB and the districts will implement over the next several years. Finally, I'll outline some of the implications of the new requirements for California.
STAFF AIR POLLUTION SPECIALIST NYSTROM: EPA finalized the new NO2 standard in January of this year. They established a new one-hour standard of 100 parts per billion and retained the existing annual standard of 53 parts per billion.

The need for a short-term one-hour standard was prompted by an assessment of newer health studies. These studies show impacts at lower levels and shorter exposures than previously indicated. EPA's proposal was peer reviewed by the Clean Air Scientific Advisory Committee, or CASAC, which advises EPA on setting standards.

STAFF AIR POLLUTION SPECIALIST NYSTROM: In their previous review of the standard, EPA found that long-term NO2 exposure was associated with an increase in respiratory illness among children. At that time, only limited data were available on short-term exposure, and EPA did not believe the studies were robust enough to support a short-term standard. Since then, the body of evidence has grown substantially. More current studies confirm and expand on the previous health findings.

As part of their recent review, EPA looked at dozens of studies showing associations between short-term...
exposure and respiratory symptoms. These toxicological
human exposure and indoor exposure studies confirm the
association between short-term exposure and adverse
impacts, particularly in children.

STAFF AIR POLLUTION SPECIALIST NYSTROM: Overall,
the health findings show that long-term exposure is
primarily associated with respiratory illness in children.
It's also associated with the decrease in their lung
function growth. The annual standard is designed to
protect against these long-term effects.

Short-term impacts include respiratory symptoms,
an increase in emergency room visits and hospitalizations,
and an increased airway response in asthmatics. Based on
these associations, EPA added the one-hour standard which
protects against acute exposures.

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

STAFF AIR POLLUTION SPECIALIST NYSTROM: EPA
established the new requirements as part of the standard
setting process. They're focused on monitoring near
roadways, which are the major source of NO2.

The new rules require near-roadway monitors in urban areas with the highest populations and traffic volumes. As a result, they're designed to protect against the impacts of peak, short-term exposure. Specifically, urban areas with a population of more than 500,000 must have at least one monitor. This monitor must be located within 165 feet or 50 meters of the roadway.

In addition, a small number of community-wide monitors are required. We expect that California's current network of NO2 monitors will meet the community-wide requirement.

Finally, EPA requires a limited number of monitors, nation-wide, near susceptible and vulnerable populations.

STAFF AIR POLLUTION SPECIALIST NYSTROM: EPA's rational for near-roadway monitoring is based on their concern that the current network may not capture the highest concentrations. EPA estimates that concentrations near heavily traveled roadways may be up to two times higher than those measured at the current sites. Given this potential difference, the near roadway monitoring will better protect against short-term peak concentrations.
Control programs aimed at reducing near-roadway exposures will also reduce community-wide concentrations.

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STAFF AIR POLLUTION SPECIALIST NYSTROM: In recent years, EPA has made a fundamental change in how it evaluates risk. Historically, the federal standards were based on community-wide exposure. Because of this focus, the current monitoring network was established to reflect equivalent community-wide concentrations.

In contrast, the new one-hour standard focuses on high, short-term exposures in areas near NO2 sources. This is a similar approach that EPA took in revising the federal lead standard.

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STAFF AIR POLLUTION SPECIALIST NYSTROM: The majority of CASAC members supported EPA's addition of near-roadway monitors. However, some members expressed concerns with using data from these monitors to determine compliance with the standard.

In addition, some members expressed concerns with using health studies based on community-wide data to establish a level of a short-term near-roadway standard. This is because there is a variable relationship between concentrations measured at near-roadway sites and at community-wide sites. This variability increases the
uncertainty of using community-wide concentrations to establish a short-term standard based on peak exposure.

STAFF AIR POLLUTION SPECIALIST NYSTROM: The last topic I'd like to cover is the implications of the new monitoring requirements for California.

While our existing network will satisfy the community-wide requirements, none of our current monitors satisfy the near-roadway requirements. As a result, ARB and the districts will need to establish a total of 16 new monitors.

As shown here, the greatest number of monitors will be in those districts with the highest population and traffic volumes. These include the South Coast, the San Joaquin Valley, and the Bay Area. A smaller number of monitors will be required in Sacramento, San Diego, and Ventura.

near-roadway monitors must be deployed by January 2013. Under EPA rules, the monitors must be sited to measure the highest expected concentrations.

The first step in identifying potential sites
will be to determine the road segments with the highest average daily traffic counts. In addition to the traffic count, we also need to consider other factors, such as the amount of congestion, the different types of vehicles on the roadway, and the local roadway design. The optimal locations will no doubt be along California's most heavily traveled freeways and freeway interchanges.

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

Although traffic volume will be a major factor in determining where to locate the near-roadway monitors, as I mentioned previously, we'll also be considering other factors.

--o0o--

STAFF AIR POLLUTION SPECIALIST NYSTROM: There are a number of issues associated with establishing a near-roadway monitoring network. These will need to be resolved over the next several years. In addition to cost, there are logistical issues and safety concerns as well as the need to address variable road conditions.

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STAFF AIR POLLUTION SPECIALIST NYSTROM: Because
none of our current monitoring sites meet the near-roadway requirements, each new site must be established from scratch. This comes with a substantial cost. EPA estimates an initial set-up cost of about $100,000 per site. However, the cost will vary, depending on where the site is located. Although we expect EPA will provide partial funding for establishing the new sites, no funding has been identified for ongoing site operation.

--o0o--

STAFF AIR POLLUTION SPECIALIST NYSTROM: In addition to cost, there are potential logistical issues and safety concerns. In many urban areas, there may be limited space for locating a monitoring station at the side of a freeway. And it may be difficult to obtain right-of-way and access permission.

In addition, ARB and the local districts will need to coordinate with other local agencies to provide electricity and obtain the necessary operating permits.

Finally, these sites may have a greater potential for vandalism because of their roadway location.

--o0o--

STAFF AIR POLLUTION SPECIALIST NYSTROM: The variability of road conditions is another concern, because it can impact resulting concentrations. These factors include the mix of vehicles traveling on the particular
roadway segment, the level of congestion, and whether the roadway is sunken, elevated, or at ground level. We'll also have to consider the presence or absence of a sound wall, which could act as a barrier to air flow and influence concentrations. Finally, we'll need to consider the predominant wind direction to ensure that we capture the highest concentrations.

STAFF AIR POLLUTION SPECIALIST NYSTROM: To provide some real-world experience with near-roadway monitoring, EPA is providing equipment funding for an early implementation study. Several California agencies may participate in this effort. The results could provide us with a better understanding of the factors we need to consider in establishing a more permanent network. The pilot program may also provide an opportunity to collect data for additional pollutants, such as PM2.5 and carbon monoxide. These data will improve our understanding of near-roadway exposure for these other pollutants as well.

STAFF AIR POLLUTION SPECIALIST NYSTROM: Despite the current lack of data from a near-roadway monitoring network, EPA plans to proceed with the NO2 designation
process. Data from our existing network of monitors do not show any violations of the new standard. However, because data from these sites may not represent peak concentrations, EPA will initially designate all areas as unclassified. Given the expected differences between NO₂ concentrations at community-wide and at near-roadway sites, it's possible the near-roadway monitors will show some non-attainment areas. Therefore, EPA will revisit the designations in 2016 or 2017 using data from the new network.

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STAFF AIR POLLUTION SPECIALIST NYSTROM: State recommendations for NO₂ designations will be based on our current network of monitors and are due to EPA in January. We plan to bring these recommendations to the Board at the end of the year.

This concludes my presentation, and I will answer any questions you have.

CHAIRPERSON NICHOLS: Thank you.

Dr. Balmes, I believe you suggested this is something we ought to bring to the Board level, and I would ask you to comment.

BOARD MEMBER BALMES: Thank you.

And thanks for the presentation.

I actually was on the Clean Air Scientific
09:26:45 1 Advisory Committee for NO2 that reviewed this issue. And
09:26:50 2 as you indicated, there was a fair amount of controversy
09:26:54 3 on the part of CASAC members. And I added to that
09:26:58 4 controversy.
09:26:59 5 I had no problem with having near-roadway
09:27:02 6 monitors, something we haven't done before. And that was
09:27:07 7 part of the reason I wanted the Board to pay attention to
09:27:10 8 this item, because it is potentially going to cause us in
09:27:15 9 California to be out of attainment for NO2, something we
09:27:18 10 haven't been for a long time, if ever. And that's number
09:27:23 11 one.
09:27:26 12 And I was one of the people who wasn't sure that
09:27:28 13 we were ready to apply enforcement regulations to
09:27:36 14 near-roadway monitoring data, because all of the health
09:27:41 15 effects data from epidemiological studies were based on
09:27:47 16 community monitors in this country. Though in Europe,
09:27:50 17 they have been doing near-roadway monitoring for a while.
09:27:56 18 So it's going to change the game. And that's what I
09:28:01 19 really wanted people to be aware of.
09:28:04 20 And it also gives us an opportunity to measure
09:28:07 21 other pollutants near roadways. I haven't been following
09:28:10 22 the PM CASAC deliberations as closely as I might have, but
09:28:19 23 I don't know if they're going to be asking for
09:28:21 24 near-roadway monitoring for PM2.5. Maybe somebody knows
09:28:27 25 about that.
DEPUTY EXECUTIVE OFFICER TERRY: We have been working with the districts. And at least, at this point, we know that the Bay Air district is planning to add PM monitoring as well.

BOARD MEMBER BALKES: But the U.S. EPA might be asking for that as well when they come up with a new PM standard.

So basically there is a new ball game in town, and I wanted the other Board members to be aware of that. And I think it's a good idea to do near-roadway monitoring. I'm upset there's not necessarily funding for it. It's another one of the unfunded mandates that Washington is passing down. But I guess there's going to be some money for assistance for this pilot program. We should take advantage of that.

But since we have to do near-roadway monitoring, I think it would be good to do PM2.5 and carbon monoxide as well.

BOARD MEMBER LOVERIDGE: Can you comment on what you mean by new ball game?

BOARD MEMBER BALKES: Well, as I tried to say perhaps not clearly and I didn't have my microphone pushed, was we've not been out of attainment for NO2 for the annual standard anywhere in California for as long as I've been involved with air pollution issues. But with
the near-roadway monitoring, concentrations get high near measured freeways -- congested freeways with a lot of stuck traffic especially. So we may be out of attainment for the new short-term standard.

BOARD MEMBER LOVERIDGE: The consequences of that?

BOARD MEMBER BALMES: Well, then we're going to have to get tougher with our regulations, which are already pretty tough.

CHAIRPERSON NICHOLS: It is -- actually, my recollection is that California was in violation of the NO2 standard back in the 70s and 80s.

BOARD MEMBER BALMES: Before my time.

CHAIRPERSON NICHOLS: Olden days, for some of us anyway.

But we have to do the full implementation plan process and show that you've got regulations in place that will prevent those violations from occurring and that you're meeting the standard.

BOARD MEMBER BALMES: Just to finish my response to Mayor Loveridge, I think most of the NO2 comes from motor vehicles. We're just going to have to have cleaner vehicles.

CHAIRPERSON NICHOLS: Or fewer of them or barriers or -- I mean, there are other methods. But yeah,
there is a limited selection of possible things that one could do. And none of them seem particularly appealing.

So, I mean, we feel like we're doing everything we know how to do at the moment in terms of emissions control. It's a matter of whether you can demonstrate that changing the fleet will get you there in time or whether more drastic measures are required. But it definitely raises the issue and raises the ante, so to speak. And it will give people information, tools they can use to think about things, like where they want to site -- where they would like to put things that might be closer to roadways, too.

This whole issue, which I know that has come up with the Board before about locations, zoning, land use related to transportation is a big issue. And it's going to continue to, as this shows, I think to be very controversial.

Other questions/comments, Board members? Did we have anyone who signed up to speak on this item? No. Okay. Well, so thank you very much.

While the next team is assembling, the next item on our agenda is a regulatory item. And it's proposed under AB 32. It's a regulation that focuses on co-benefits. That is the air pollution benefits as well
as the benefits in terms of greenhouse gas emissions from improving energy efficiency at large industrial facilities. This is a proposal that's gotten a lot of attention and a lot of interest I think from environmental and environmental justice organizations as well as from the regulated community. It's an interesting approach. It provides the Board with information as well as, of course, those who are subject to the rule. But it's a way of providing information about opportunities for reducing emissions of greenhouse gases as well as criteria pollutants and toxic air contaminants.

And I'm now going to turn this item over to the staff. Mr. Goldstene.

EXECUTIVE OFFICER GOLDSTENE: Thank you, Chairman Nichols.

Today, we're proposing for your consideration a regulation that will require the largest stationary greenhouse gas sources in the state to conduct a one-time energy efficiency assessment. The purpose of this assessment is to determine potential opportunities for improving energy efficiency and to identify potential emission reduction opportunities for greenhouse gases, criteria pollutants, and toxic air contaminants.

As you know, AB 32 requires ARB to create and
implement measures needed to reduce current greenhouse gas emissions to 1990 levels by 2020. The information gathered from implementation of the proposed regulation will be a valuable resource to inform industry, regulatory agencies, and the public on what greenhouse gas emission reduction opportunities are available from these large industrial facilities, as well as what criteria pollutants and toxic air contaminant emission co-benefits might be realized.

This information will also help California's largest stationary sources of greenhouse gas emissions to consider potential co-benefits when deciding on actions to comply with other greenhouse gas programs, like the Cap and Trade Program.

I'd like have to Lisa Williams of the Stationary Source Division present the proposal. Lisa.

(Thereupon an overhead presentation was presented as follows.)

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

Good morning, Madam Chairman and members of the Board.

Today, I'll be presenting staff's proposed regulation for energy efficiency and co-benefits assessment of large industrial facilities.
AIR POLLUTION SPECIALIST WILLIAMS: This slide includes the topics I'll be discussing in my presentation.

AIR POLLUTION SPECIALIST WILLIAMS: The proposed regulation that we will present to you today is one of the numerous measures outlined in the Scoping Plan approved by the Board to comply with the California's Global Warming Solutions Act.

As envisioned in the Scoping Plan, this measure would collect information on the largest industrial sources of GHG emissions in the state, identify energy efficiency improvement opportunities which would provide greenhouse gas emission reductions, and identify co-benefits for other pollutants which could result from these improvements. This would be achieved in a one-time facility-wide assessment.

AIR POLLUTION SPECIALIST WILLIAMS: Our goals in developing the proposed regulation mirror the intent of the Scoping Plan measure. We wanted to develop a regulation that would determine potential opportunities available for improving energy efficiency that could
result in reducing emissions from the largest stationary
sources in the state and provide information that will
help us identify the future actions for obtaining emission
reductions.

AIR POLLUTION SPECIALIST WILLIAMS: We think the
information collected will be extremely useful in
informing ARB's emission reduction programs. It will help
us to determine which projects might be implemented to
achieve greenhouse gas emissions reductions while
maximizing co-benefits and the best approach in making
that happen.

AIR POLLUTION SPECIALIST WILLIAMS: As part of
developing the proposal, we held three public workshops
where we provided draft regulatory concepts and language
and solicited public input. All of the workshops were
broadcast online, helping provide access to the affected
stakeholders and the public.

We also met with various stakeholders through
multiple site visits, teleconferences, and in-person
meetings.

AIR POLLUTION SPECIALIST WILLIAMS: Now I'll
summarize the proposed regulation.
AIR POLLUTION SPECIALIST WILLIAMS: The proposed regulation would affect facilities in California with at least one half million metric tons of carbon dioxide, or CO2, equivalent emissions annually based on the 2009 calendar year mandatory greenhouse gas reporting. The total CO2 equivalent emissions include emissions from both biogenic and anthropogenic sources. We expect about 60 facilities will meet the applicability threshold and be subject to the proposed regulation. The facility types that meet this threshold are among the largest industrial facilities in the state, and the sectors are shown here. The proposed requirements would also apply to transportation fuel refineries and cement plants at an applicability threshold of a quarter million metric tons of CO2 equivalent emissions. The requirements focus strictly on stationary sources and do not include portable equipment or mobile combustion sources.

AIR POLLUTION SPECIALIST WILLIAMS: The proposed regulation has three elements. The first is an analysis of the facility energy consumption and emission sources to help identify the...
energy consumers within the facility.

The next is an assessment of the energy efficiency improvement opportunities that could result in greenhouse gas and co-pollutant emission reductions. In other words, what improvements potentially could be made.

Finally, the regulation would require a comprehensive report of the first two elements to be submitted to ARB.

AIR POLLUTION SPECIALIST WILLIAMS: The first element is designed to collect information on the facility processes, energy and fuel consumption, and emissions. It requires the facility operator to provide facility process flow diagrams, descriptions of the processes and equipment types used, the types and amounts of energy consumed, and emissions data.

Greenhouse gas emissions data would come from the 2009 mandatory greenhouse gas reporting. Criteria and toxics emissions data would come from information the source is required to provide to local air districts.

The proposed regulation does not create a new facility emissions inventory. Instead, existing data that has already gone through a review and/or validation process will be utilized.
AIR POLLUTION SPECIALIST WILLIAMS: The second element is the energy efficiency improvement analysis. This is the primary focus of the proposed regulation. For this element, facilities would identify all potential opportunities to improve efficiency. It requires each facility operator to provide information on the whole range of projects, including those with relatively low costs that can be implemented quickly, to those requiring large amounts of capital that would take years to implement, or those projects that would likely not be considered as currently cost effective because the payback period would be too long.

For each project identified, the facility would assess the impacts associated with implementation, including project costs, potential emission reductions for greenhouse gas and co-pollutants, permit requirements, and other associated impacts.

The assessment is intended to provide preliminary information at a budgetary level versus a detailed engineering analysis. The assessment can either be conducted by the facility or by a third-party assessor.

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AIR POLLUTION SPECIALIST WILLIAMS: ARB staff who are most familiar with the industrial sector will be assigned to work closely with the facilities throughout
the assessment process to address implementation questions and concerns as they arise and to streamline compliance with the requirements.

The third element occurs once the assessment is complete. Each facility would submit an assessment report to ARB by December 15, 2011. A 90-day compliance extension is available for facilities who can demonstrate they are unable to meet the required deadline.

The assessment report will include the energy consumption and emissions analysis, the comprehensive energy efficiency improvement assessment, and any additional supporting documentation.

ARB staff will review submitted reports for completeness and request additional information from the facilities, if necessary. If staff determines that the assessment report is unacceptable, there are provisions in the regulation for staff to require an independent third-party assessment. Additionally, we plan to select a sampling of the reports for a third-party review. ARB will contract with the Department of Energy certified energy experts for the review.

AIR POLLUTION SPECIALIST WILLIAMS: The proposed regulation includes a requirement to make the facility
assessment reports available to the public by April 30th, 2012. Staff believes it is critical that the information collected be publicly available, particularly to those communities that are located near the facilities. It will provide the public the information they'll need to participate in workshops to discuss the data and possible approaches to achieving emission reductions.

In developing the proposed regulation, ARB staff's goal was to require information that is preliminary but comprehensive enough to guide future decision making.

AIR POLLUTION SPECIALIST WILLIAMS: After collection and posting of the assessment reports is completed, ARB staff will prepare and provide to the public a summary report of preliminary findings based on the facility assessments reports. We will initiate dialog with stakeholders by conducting public workshops to discuss approaches to achieving further reductions of greenhouse gas and co-pollutant emissions. And these approaches may include voluntary measures, regulations, district requirements, or a combination of actions.

--o0o--
AIR POLLUTION SPECIALIST WILLIAMS: Overall, we've been able to work through most of the concerns that have been raised.

One of the concerns relates to confidentiality. Some stakeholders have expressed concerns that the data provided may be confidential. As I mentioned, our goal was to require information that would provide sufficient detail about energy efficiency improvement projects, yet not reveal confidential information about the facility. As such, we expect the majority of information received will not be confidential.

In addition, we will work closely with the facility operators as they develop their reports to address any confidentiality concerns. Nevertheless, in the event an operator identifies information as confidential, we will handle that data in accordance with state law that governs confidential data submittals.

Another concern raised involves the applicability threshold that is based on total CO2 equivalent emissions, both biogenic and anthropogenic sources. This results in about four biomass facilities being subject to the proposed regulation. We believe that for this regulation, total CO2 is the appropriate surrogate for triggering the assessment. It will identify large facilities in California for the purpose of exploring opportunities for
energy efficiency improvements that could result in greenhouse gas emission reductions as well as reduction in criteria air pollutants and toxic air contaminants.

AIR POLLUTION SPECIALIST WILLIAMS: Next I'll discuss the impacts of the proposal.

The approximately 60 facilities that we expect to be subject to the proposed regulation are identified here on this map. In 2008, these facilities were responsible for about 70 million metric tons of CO2 equivalent emissions, which is about 45 percent of the total statewide greenhouse gas emissions from the industrial sector.

AIR POLLUTION SPECIALIST WILLIAMS: Staff estimates the total cost to the affected facilities will be about $14 million for a 16- to 18-month period. The estimated individual facilities costs will vary, depending on the type and complexity of the facility. Electricity-generating facilities and hydrogen plants are expected to have the lowest costs, while refineries and oil and gas extraction and transmission facilities are expected to have the highest costs.
CHAIRPERSON NICHOLS: Just to clarify, these are the costs of doing the audits?

AIR POLLUTION SPECIALIST WILLIAMS: Correct.

CHAIRPERSON NICHOLS: Not of any action that might be taken?

AIR POLLUTION SPECIALIST WILLIAMS: That's correct.

--o0o--

AIR POLLUTION SPECIALIST WILLIAMS: Staff believes the benefits of the proposed regulation outweigh the one-time facility costs associated with conducting the assessment. The information gathered from the facility assessments will provide valuable data which ARB, local districts, and the public can use to inform greenhouse gas, criteria pollutants, and toxic air contaminant emission control program development and implementation. This will ensure that resources are directed towards the greatest emission reduction opportunities. Facilities also stand to benefit as they will likely discover efficiency improvements that can reduce their costs. A similar program is in place in Australia. The government released a status report this year that indicates facilities found opportunities that would save about 70 percent of their total energy consumption and
reduce greenhouse gas emissions. The program facilities are voluntarily implementing about 60 percent of the projects identified.

Lastly, as I mentioned earlier, the assessments from staff's proposed regulation will provide the public with preliminary information to meaningfully participate in the next phase. This is especially important for addressing localized impacts in communities that are already adversely impacted by the air pollution.

AIR POLLUTION SPECIALIST WILLIAMS: There are a few 15-day changes that we are proposing.

AIR POLLUTION SPECIALIST WILLIAMS: Staff is proposing several minor changes to provide additional clarity. For example, we are proposing to modify the language to provide clarification and guidance on reporting facility emissions, clarify the responsibilities when a third-party assessment is conducted, and a few other miscellaneous changes.

AIR POLLUTION SPECIALIST WILLIAMS: In conclusion, the proposed regulation will affect about 60 of the state's largest industrial facilities and requires them to conduct a one-time assessment to identify
opportunities to reduce greenhouse gas, criteria pollutants, and toxic air contaminant emissions. This data will inform potential future actions for reducing emissions and will also benefit industrial facilities looking for ways to improve efficiencies and reduce their costs.

And finally, the regulation provides the public with the information they need to participate in the process of determining the best approaches to achieve emission reductions.

AIR POLLUTION SPECIALIST WILLIAMS: ARB staff recommends the Board approve the regulation with proposed 15-day changes.

This concludes my presentation at this time.

We'll be happy to answer any questions.

CHAIRPERSON NICHOLS: Are there questions before we proceed to public comment?

BOARD MEMBER RIORDAN: Madam Chair, I just want to speak to the staff for a moment.

I was particularly interested with the letter from the Coalition for Sustainable Cement Manufacture and the issue of confidentiality. They're in a very competitive business, as we all know. They're competitive against each other as well as within the United States and
worldwide. And I would hope that we could work with them.
There's a very fine balance between a trade secret and the public's right to know of certain things and obviously our right to know. I don't think there's any issue between the industry and confidentiality with the staff, because I think we've always done a very good job of working with businesses to retain confidentiality. But it's that fine line that we have to walk between what is open and giving such information that somebody can derive some economic benefit from that by just simply reading it.

So I want to underscore that and my concern for that, because obviously in the area that I serve, those cement plants are located. And so I think it's important for us to work through that. And it's going to take some time and effort on staff's part. And Madam Chair, I think it's one of those things we need to do and do it right. So if I might put an underline there and say we just need to be very careful about how we do this.

CHAIRPERSON NICHOLS: Thank you.
Dr. Telles, did you have your hand up?
BOARD MEMBER TELLES: Just a question.
In the report, it mentions there's minimum cost incurred in administrating this. How much does it cost to
09:49:51 1 administrate this? What does ARB have to pay to
09:49:55 2 administrate this?
09:50:05 3 TECHNICAL ANALYSIS SECTION MANAGER TARICCO: We
09:50:07 4 expect to cover this with the existing resources with the
09:50:09 5 staff we have.
09:50:10 6 BOARD MEMBER TELLES: But you have to direct some
09:50:10 7 resources there. There has to be a budget. Just out of
09:50:11 8 curiosity.
09:50:15 9 EMISSIONS ASSESSMENT BRANCH CHIEF DONOHOUÉ: Dan
09:50:16 10 Donohoue.
09:50:17 11 During the initial phase right now, most of the
09:50:21 12 work associated with that post adoption would be the
09:50:25 13 normal rulemaking process. And that's probably going to
09:50:28 14 require an additional PY to do that.
09:50:32 15 During the initial phases of working with the
09:50:38 16 companies on their development of the thing, we anticipate
09:50:43 17 there's probably going to be two to three PYs with respect
09:50:47 18 to that phase. And the next phase as we go out with
09:50:52 19 workshops on the results on that, there's probably going
09:50:54 20 to be an additional two PY associated with that.
09:50:57 21 I would point out that a number of the resources
09:50:59 22 associated with that, particularly with the people who
09:51:01 23 would be working with the sectors, there are other
09:51:05 24 programs and other expectations of us to bring forward
09:51:11 25 additional emission reductions for criteria and greenhouse
gas emission reductions. So actually many of these people are doing that type of work as it is. And this will be part of that process in providing them that information.

CHAIRPERSON NICHOLS: I think the interesting point that your question raises is as we transition from essentially the planning stages for AB 32 into implementation, I know that our Executive Officer and senior management are looking at some of the issues about consolidation and organization of staff. Because the distinction between what is climate change and what is other pollutants gets smaller and smaller, as we realize many of these measures -- hopefully most of them -- are measures that really are things that really we're doing for both purposes. So there's quite a bit of thinking going on about how that's going to work in the future.

But for the moment we have to kind of try to separately budget everything, especially because of the requirement ultimately for being able to pay for this program through fees. So it's interesting recordkeeping questions that are being thrown at us.

Yes, Ms. D'Adamo.

BOARD MEMBER D'ADAMO: Just a couple of questions.

I, too, am a little concerned about public disclosure of trade secrets and would like staff to just
walk us through a hypothetical situation. In the event a company believes that information that ARB is requesting, they would like to guard that, what would the process be?

Would they not provide it and just flag that there's information they are choosing not to submit or would they submit it, flag it to you, and then -- what process would you go through in order to determine whether or not the information would need to be disclosed?

AIR POLLUTION SPECIALIST WILLIAMS: First of all, like I mentioned in the presentation, we think we designed the requirements so they don't have to provide the confidential information. And we do plan to work with them through that process. So as they're developing their assessments, if they come up with stuff they think is trade secret, we'll discuss it with them. We'll try to address it at that point so they're not providing us with confidential information. We think it should be general they're not having to go to any detail that would be trade secret.

But if in the end when they submit their report to us they do still feel some of the information is confidential, they still submit it to us, but they identify it as confidential, and then we treat it as confidential, do not release to the public at that point. There may be additional legal process after that, but
that's the process that happens with them and us.

EMISSIONS ASSESSMENT BRANCH CHIEF DONOHOUE:

Aron, could you respond to the next step?

SENIOR STAFF COUNSEL LIVINGSTON: This is Aron Livingston, staff counsel.

The next step would be that whoever -- if there is a Public Records Act request for that information, then the person who gave us the information would have to justify the need for the confidentiality. And ARB staff would then either except that or not. And if we did and the requester still wants the information, it would go through a court process and an in camera review in court. But it seldom gets to that point.

STATIONARY SOURCE DIVISION CHIEF COREY: This Richard Corey.

Before it gets to the level Aron described, as Lisa, said if we've gotten to the back and forth, some of the issues raised by the cement, one of the things we'd look at is aggregation. Is there an opportunity to do some level of aggregation and still have useful information that's informative, that deals and speaks with some of the confidentiality? So we're clearly sensitive to this, this balance Mrs. Riordan pointed out, but think that we can get to a comfortable place working with the industry.
BOARD MEMBER D'ADAMO: Okay. And then I'm glad to see the random audit, but there's not much information in what you presented. How many?

AIR POLLUTION SPECIALIST WILLIAMS: We were looking at ten percent or one facility from each sector. So some of the larger sectors would have two or three.

BOARD MEMBER D'ADAMO: Did you consider a periodic update?

EMISSIONS ASSESSMENT BRANCH CHIEF DONOHOU: This is Dan Donohoue. The Scoping Plan specified this as a one-time requirement. So we have not. It's one time based on 2009 emissions inventory. And we have not done anything in here for anything other than the one time.

BOARD MEMBER D'ADAMO: It just seems to me -- I don't know enough about these sectors. But as costs come down with implementation across California of the energy efficiency improvements, it just seems that a periodic update might perhaps give us better news about more cost-effective measures.

EMISSIONS ASSESSMENT BRANCH CHIEF DONOHOU: One thing I think is important to note I think most of these facilities are going to fall under other requirements, including the Cap and Trade Program. So they are going to have to be being looking at and continuing to make ongoing
efforts there. The refining facilities will come under RES. Unfortunately, they're not here today. And there is a lot of other requirements that is going to necessitate action. So there is going to be ongoing effort, ongoing improvement.

STATIONARY SOURCE DIVISION CHIEF COREY: Again, Richard Corey. The point I would add to that is we would have the opportunity through the implementation of reporting the information that comes out of this program post implementation of cap and trade as well as other climate measures really to report back to the Board in terms of here's the experience. Here's what we learned from the effort. Here's the actions that were ultimately implemented. And that may inform whether it would be useful to have subsequent steps.

DEPUTY EXECUTIVE OFFICER FLETCHER: Just to pile on here, the other consideration is these facilities don't change very much from year to year, and we will have all the information we need. As costs come down, we can re-evaluate what those measures look like.

But I think we'll have all of the information that we would need coupled with the mandatory reporting to make that ongoing adjustment.

CHAIRPERSON NICHOLS: I guess the point is
they'll have the information, too. And the key to this whole regulation really is that we have reason to believe -- and I think what we'll obviously find out, but we certainly have I think solid information that there are cost-effective measures that could be used to reduce energy consumption that aren't being -- people are not availing themselves of simply because they're not aware of what those opportunities are. So this is a way of bringing that information to the floor. It's maybe surprising, given how expensive electricity is, that people aren't doing absolutely everything they can. But they don't know what's available or haven't thought about what could be done in a cost-effective way. So I think it's going to be -- we are going to gain a lot of useful information from this, but I hope that this is one of those regulations that really is a win-win for those who are going to be part of this effort as well. Okay, if there are no questions or comments, we'll go to the public. Our first witness is Greg Knapp. Mr. KNAPP: Good morning, Chairman Nichols, members of the Board. My name is Greg Knapp from Lehigh Hanson, a
California cement manufacturer and also part of the Coalition of Cement Manufacturers this has been working actively with ARB and staff on many issues of AB 32. We appreciate that interaction we've had. We think it's been very beneficial.

Just a couple of comments this morning on this rule. Again, we as an industry have submitted comments and feel that they speak pretty clearly of what our concerns are.

Fundamentally, we essentially support the goals of this regulation. Improving energy efficiency is something that our plants and the industry constantly do. It's a key motivator for us certainly.

We do have concerns though with the confidentiality of some of the data that are required. We appreciate the concern expressed by Board Members Riordan and D'Adamo this morning. I could not express our concerns better than Board Member Riordan did just previously.

I just would like to punctuate that with the concept or the idea that some of this information that would be required, we, as members, of the industry, are not allowed to discuss or disclose due to federal anti-trust laws. And obviously that is a very sensitive situation, and we pay very close attention to that.
As we move through this process with ARB staff, we will identify those types of information and hope that we can certainly come to a way to meet the intent of the law and the regulation, but also protect the sensitive information.

That's all I have.

CHAIRPERSON NICHOLS: Dr. Balmes.

BOARD MEMBER BALMES: So sir, if I may. I'm just trying to get a sense of how -- obviously, you've expressed concern about releasing confidential information. I'm trying to get a sense of the type of information that you're concerned about disclosing.

MR. KNAPP: Generally anything that deals with cost and competitiveness is sensitive.

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

BOARD MEMBER BALMES: Okay. Because I was -- in terms of emissions and chemicals, didn't seem like there was an obvious concern. Now I understand.
CHAIRPERSON NICHOLS: I hope that was a fair
characterization of the situation. It was ancient history
of course.

MR. KNAPP: Definitely before my time. Thanks.

CHAIRPERSON NICHOLS: Thank you.

Diane Bailey of NRDC.

MS. BAILEY: Good morning, Chairman Nichols,
members of the Board, and staff.

My name is Diane Bailey. I'm a senior scientist
with the Natural Resources Defense Council. And I'm here
today in strong support of this measure with some of the
improvements that staff presented.

We really appreciate the hard work of staff on
this measure. The industrial sector, including its power
use, is responsible for fully one-third of the greenhouse
gas emissions in California. So we commend ARB for moving
forward with this audit measure to reign in the global
warming pollution from one of the very largest sectors in
the state. This is a really important step forward for
the implementation of AB 32.

I want to highlight some of the important aspects
of the measure that we strongly support. We support the
inclusion of all of the major refineries and cement kilns,
as well as the other major industrial facilities, over
half a million metric tons of CO2 equivalence. And we
believe that the focus on these very largest facilities is appropriate given their contribution to almost half of the emissions from this large sector. We strongly support the requirement to track and report criteria and air toxic pollutant emissions alongside of the greenhouse gas emissions and the opportunities to reduce these pollutants. This is paramount in a sector where the largest greenhouse gas emitters also have tremendous impacts on air quality and community health throughout the state. We appreciate the discussion that's gone on this morning about CBI, the confidential information, and trying to maintain public access to the data and keep the measure transparent. That's important to us. We strongly recommend and support the improvements to the measure on oversight, namely efforts to institute random re-audits on some of the reports to ARB. And this will go a very long way to assure that the data is accurate. Finally, I want to echo and state strong support for the intent in the presentation encouraging facilities to act upon the measures identified by their audits. I think it's very important for the facilities to make every effort to move forward with all of the cost-effective measures identified by their audits.
So thank you very much for the efforts on this measure. And we look forward to working with staff.

CHAIRPERSON NICHOLS: Thank you, Ms. Bailey.

Hank de Carbonel.

MR. DE CARBONEL: Good morning, Board and staff.

My name is Hank de Carbonel. I am with the concrete pumpers. And I'm here to say that I, no surprise, don't support AGW in any way, shape, or form. I think it's a fraud. It makes Mr. Madoff's efforts look piddly by comparison.

I'd like to read a little couple of sentences from a fellow named Dr. Ivory. He's a UN senior staffer of scientists and a former university professor. On the subject of AGW, "The claim to so-called greenhouse gases chiefly the" -- "the claim to so-called greenhouse gases, chiefly the natural biological products of carbon dioxide methane, and nitrous oxide are the cause of global warming is only a theory. It is not a factor unequivocal truth.

Even though the proportions of the theory -- the proponents of the theory would want to claim the science behind their theory is beyond debate and supported by an overwhelming majority of scientists."

He also goes on to say, "however, the most damming evidence against greenhouse gas induced global warming is the fact there was a significant global cooling
between about 1940 and 1975 -- "there were a lot of troubles in the world during that time, which would be contrary to the so-called facts -- "associated with the decreasing radiation levels, even though there was a three-fold increase in burning of that fossil fuels and the greenhouse gas emissions during this period."

So we're talking about World War II and a number of other disturbances. And somehow it got cooler. The bottom line is that there was no unequivocal scientific evidence that global warming is caused by greenhouse gases. And to continue to pursue this enormously expensive and costly in terms of people's livelihood and their very lives at a time when real scientists have real issues with real things that could be done to improve the lives of everybody in California as well as this country and the world to me is just absolutely obscene.

Thank you.

CHAIRPERSON NICHOLS: Okay. I can't resist not responding to that comment because it was not germane to the issues before us, but I had meant to do this at another time. I would encourage not only Mr. de Carbonel but anybody in the audience who's interested in the issue of the science of global warming to read the obituary that
was in the New York Times yesterday for Dr. Steven Schneider, Professor at Stanford, who passed away in London quite unexpectedly. He was one of the leading climate scientists. He was indefatigable in his travels and his efforts. I encountered him when I was at UCLA and he was at Stanford and we served on a panel for the National Academy of Sciences together. But what's interesting about the obituary -- and there are many of them now online that can be pursued -- is that, you know, this was a scientist who was one of the people who could very well have spent his life in comfort just writing books and not having to get out and engage in the public. And the fact that he died while in pursuit of his mission of continuing to educate people about it without any efforts to shy away from the uncertainties or the difficulties of science but still to be out there in the public sector taking these issues on was something really admirable.

And so I'd just like to raise that issue for the Board members, because the kind of comment that we just heard is, as I think we all know, it's part of the process. And we have to keep engaging in it. It's just very -- it's tough I think to be involved in making policy in an area where the science continues to evolve.

But I think those of us who are here and part of
this administration and obligated to administer AB 32 by the oath of office that we take have to continue to be aware of the science and following its development. But we also have an obligation to recognize that the science on this issue has now been resolved by the Legislature and we have a law to carry out. And that's what we're doing.

All right. Are there any other witnesses who wish to appear on this item? That was the list that I had. If not, I think we close the record at this point and go back to the staff if there is any additional comments.

EXECUTIVE OFFICER GOLDSTENE: No.


BOARD MEMBER BERG: I just have one clarifying question. I believe I heard when you were talking about the facilities that this is applicable to that there would be a group of people that would be participating at a quarter of a million metric tons.

AIR POLLUTION SPECIALIST WILLIAMS: Correct.

That's transportation fuel refineries, so petroleum refineries that release transportation fuels into commerce and cement plants.

BOARD MEMBER BERG: So all the cement plants are
10:10:48   1 about that level?
10:10:50   2 AIR POLLUTION SPECIALIST WILLIAMS: Yeah.
10:10:51   3 There's correct. They're above that level.
10:10:55   5 CHAIRPERSON NICHOLS: Other Board comments?
10:10:57   6 Yes, Mayor Loveridge.
10:11:00   7 BOARD MEMBER LOVERIDGE: This is more a question
10:11:01   8 than a comment. But it is somewhat startling given what
10:11:04   9 is before us that only two people -- three people here to
10:11:07   10 testify today.
10:11:10   11 I guess I would ask staff why is it? This is
10:11:13   12 important. I know it's summer. And is this going to come
10:11:23   13 back in a more difficult way to the Board? But it is --
10:11:27   14 given the discussion, it is interesting only there's two
10:11:30   15 people here today.
10:11:32   16 EMISSIONS ASSESSMENT BRANCH CHIEF DONOHOU:  
10:11:32   17 We've actually worked on this for two years. I think a
10:11:35   18 lot of credit also goes to the regulated community and to
10:11:39   19 the environmental community. Nobody got quite what they
10:11:41   20 wanted in this regulation. There were long hours done
10:11:47   21 going out and looking at the facilities and understanding
10:11:51   22 what's happening there. There was a lot of conversation
10:11:55   23 done on various elements. There were compromises made on
10:12:00   24 all parts. It was a long process.
10:12:02   25 I can show you a couple of the whip marks, but I
won't.

So I think it's really a complement to the regulated community, to the environmental community for working with us on it, and to the staff who put this together.

BOARD MEMBER LOVERIDGE: Let me just offer my kudos to the three.

CHAIRPERSON NICHOLS: Thank you.

Yes, Dr. Balmes.

BOARD MEMBER BALMES: Well, going back to our discussions prior to adopting the Scoping Plan, we don't have a target for the industrial sector, as I recall. And Ms. Bailey's comments that 30 percent of the greenhouse gas emissions come from the industrial sector I've always wondered why we don't. And maybe somebody from the staff could explain that to me, because we could actually tie results from these audits to a target for the industrial sector in terms of metric tons.

STATIONARY SOURCE DIVISION CHIEF COREY: I'll go to part of that. One, back to the point the very large businesses that are subject to the programs, many under the Cap and Trade Program. So that ultimate reg in terms of continuing to lower emissions for that sector, that's one element. There have been some focused targeted
regulations at the sector as well that have gotten to opportunities for further reductions.

So the way I look at this is this effort is complementary, particularly complementary to the cap and trade effort to further discover additional opportunities for reductions. The characterization is that they're not on the hopeful reductions. They're under the cap and there's focused measures. So they are part of the solution. They've been called out accordingly.

EMISSIONS ASSESSMENT BRANCH CHIEF DONOHOU: Dan Donohoue.

I just wanted to add a thing on that. As we went through the process and we looked at this, we looked at the opportunities. Is there a possibility to establish some requirement those things that were cost effective would immediately be implemented should we have some overall cap?

The problem we kept coming up with is we couldn't do that until we got this data. So now we have a process where we're getting that data and we're going to be able to much better not arbitrarily establish what those things should be and make sure their cost effectiveness, but that they're not out there and subject us to the potential for litigation and all that.

So we've got the first step in the process
10:14:38 1 getting this information to figure out exactly what we
10:14:40 2 need to do to follow up on your step.
10:14:45 3 BOARD MEMBER BALMES: I bet more people would
10:14:46 4 show up if this --
10:14:51 5 EMISSIONS ASSESSMENT BRANCH CHIEF DONOHOUÉ: We
10:14:52 6 can get more.
10:14:55 7 CHAIRPERSON NICHOLS: Okay. Could I have a
10:14:57 8 motion to approve this measure?
10:15:00 9 Dr. Telles.
10:15:03 10 BOARD MEMBER TELLES: I just have a little
10:15:05 11 uneasiness.
10:15:06 12 CHAIRPERSON NICHOLS: Oh, that wasn't a motion.
10:15:07 13 All right. Okay.
10:15:09 14 BOARD MEMBER LOVERIDGE: So moved.
10:15:10 15 BOARD MEMBER YEAGER: Second.
10:15:10 16 CHAIRPERSON NICHOLS: We have a motion and a
10:15:15 18 BOARD MEMBER TELLES: About this process, it
10:15:17 19 seems to me that some of this is to ask industry to come
10:15:24 20 up with ideas on how to reduce greenhouse gas emissions,
10:15:30 21 which is a good goal. That's what we're here for.
10:15:33 22 But I don't see the benefits of having them jump
10:15:36 23 through hoops and to kind of write a report and give it to
10:15:42 24 you, because it's going to be driven primarily by the
10:15:45 25 other regulations and cap and trade thing which are
driving it more so than this.

And this seems to me government asking industry to do things which are really not necessary because they're going to do them anyway because of other things which are coming down the line, especially the cap and trade thing. And I would think that the industry knows their business better than the staff. And there's going to be some processes coming up which will be probably new and be patented and don't even exist yet. I don't think industry is going to be putting those in a report, because it's proprietary information isn't even out there yet. I just have a hard time seeing what the real benefit of this is. I don't know if the rest of you on the Board are feeling anything about government is stepping on a little bit too bureaucratic here.

DEPUTY EXECUTIVE OFFICER FLETCHER: Well, I'll take a crack at that. One of the questions you asked earlier was the resources it was going to take us to implement this measure. And I think one of our considerations here is that as part of our work under AB 32, we have staff that are dedicated to each of these sectors. So we do know a lot about these sectors. We are in a position to be able to evaluate the plans when they come in. We do track new and innovative technologies as well as the industry. So
in the past, many of our regulations have been technology forcing because we have been on top of the technologies.

But I think that it is a good business practice what they're doing, which is I think one of the reasons why we haven't gotten a lot of comments. These are things the industries ought to be looking at for any number of reasons.

We do have some responsibility under AB 32 to make a determination of what are the co-benefits of the actions that are taken and to look at the local community impacts. So one of the reasons that we're doing this is to really generate that sort of local data.

In the Cap and Trade Program with trading and things of that nature, it's possible that the businesses would find -- that they may find that participating in the market program is somewhat less expensive than taking actions at their own facilities and that we have the potential to forgo any localized criteria and toxic benefits from actions that would be taken on site.

So we're hoping through this measure to get enough information to be able to really, as we said before, have the facilities realize that there are cost-effective reductions that maybe they hadn't thought about in the past as well as to provide us with information that would look at the potential criteria.
toxic benefits that would have local community impacts,
whereas GHG is more of a regional consideration. So
that's why we think it's an important measure to take
here.

CHAIRPERSON NICHOLS: Dr. Balmes.

BOARD MEMBER BALMES: Well, I believe I had a
little bit of a role in even having this rule in the
Scoping Plan, because I was expressing concern to staff as
they were briefing me prior to our adopting the Scoping
Plan about co-benefits in terms of reducing toxic
pollutants and criteria pollutant emissions. And I felt
much more reassured about adopting the Scoping Plan after
this proposed rule was put into the Scoping Plan.
So Dr. Telles, I agree on the efficiency side of
things that maybe we don't have to be telling industry
what's the best thing for them to be doing. But on the
potential co-benefits in terms of toxic and criteria
pollutants, I'm not so sure that's the case.

CHAIRPERSON NICHOLS: If there is no further
questions or comments, I think we can call the question.
We do have a motion from Mayor Loveridge and a second Mr.
Supervisor Yeager. All in favor, please say aye.
(Ayes)

CHAIRPERSON NICHOLS: Any opposed?
Abstentions?
All right. Thank you very much.

We have a report on what's going on at the Western Climate Initiative, another AB 32 related item. This is a very interesting project. It's not a new governmental entity. It is an interesting process in which a number of states and Canadian provinces have been sharing information, collaborating on analyses, and trying to develop policy initiatives together, sharing information about how best to reduce greenhouse gas emissions.

And our lead on this effort has been Michael Gibbs from Cal/EPA and his support here, his wingman is Kevin Kennedy, the head of our Office of Climate Change. And the two of them are going to give us an update on what's going on at the Western Climate Initiative. So welcome.

Do you want to introduce this item?

EXECUTIVE OFFICER GOLDSTENE: Well, you did such a good job.

By working as a region, the WCI hopes to develop and demonstrate effective strategies to achieve greenhouse gas emission reductions. Since 2007, members of ARB staff have participated in this highly valuable regional collaboration alongside staff from the California Public

Throughout, the California Environmental Protection Agency has led California's input to this effort and coordinated the work of California's representatives.

Michael Gibbs, Deputy Secretary for Climate Change at Cal/EPA, is here today to update the Board on efforts of the WCI. He is the lead deputy for Cal/EPA's climate change initiatives and serves currently as co-chair of the WCI.

Michael.

(Thereupon an overhead presentation was presented as follows.)

DEPUTY SECRETARY FOR CLIMATE CHANGE GIBBS: Thank you very much.

And good morning, Madam Chairman and members of the Board.

It's my pleasure to be here this morning to give you an update on the Western Climate Initiative. I do have a brief presentation, and then I'll be happy to take any questions and comments.

It has been my privilege to help represent California to the Western Climate Initiative, or WCI.

California is also represented by Dr. Kennedy here from...
the Office of Climate Change, and Executive Officer

And as Mr. Goldstene has indicated, the ARB staff along with staff of other agencies have helped to support the Western Climate Initiative.

Next slide.

DEPUTY SECRETARY FOR CLIMATE CHANGE GIBBS: The WCI is a collaboration of states and provinces who are jointly developing recommendations for our climate program. The initiative was started in 2007 with a Memorandum of Understanding signed by five Governors and was since expanded to a total of seven states and four Canada provinces.

We also have a set of observers who are listed here and who can and in some cases do participate in the discussions and in the work, but it is the partners who actually make the recommendations.

As is the case with these types of projects, there have often been comments about the level of participation from various states and provinces. And I just wanted to make sure everyone was aware that all eleven partners in the program in the initiative are actively engaged in the process.

There have been some media reports recently about
Arizona and their participation. Their Governor's Executive Order directed them to stay in the Western Climate Initiative. And they have done that and they remain actively engaged in the discussions, although they have said they will not be starting a Cap and Trade Program in 2012. I'll speak more about cap and trade in a moment.

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DEPUTY SECRETARY FOR CLIMATE CHANGE GIBBS: On the next slide, we just have a map here. The partners are in green and the observers are in blue. And on the left-hand side of the chart here, we see some statistics about the seven states and four partners and the portion of the population and economy that is covered by these partners in their respective countries of the United States and Canada.

I think one of the things of note here is that the four Canada provinces, in fact, represent more than three-quarters of the population and economy in country of Canada. As a consequence, represents the overwhelming majority of Canada.

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DEPUTY SECRETARY FOR CLIMATE CHANGE GIBBS: On the next slide, I include a quote here, some material from the Global Warming Solutions Act, AB 32, which directs...
international and regional work. This section includes direction to -- and I'll quote here from the last part, "to facilitate the development of integrated and cost-effective regional, national, and international greenhouse gas reduction programs." So the WCI is one of the activities that is underway in support of this requirement of AB 32.

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DEPUTY SECRETARY FOR CLIMATE CHANGE GIBBS: The Memorandum of Understanding specifies the scope of the initiative specifically defined in the MOU to identify, evaluate, and implement ways to reduce greenhouse gas emissions collectively and to achieve related co-benefits. The specific outputs or deliverables from the Initiative include: Setting a regional emissions reduction goal which has been done; join a multi-state greenhouse gas registry, which has been completed; and to design a regional multi-sector market-based mechanism, which has taken the form of recommendations for a Cap and Trade Program.

In addition to those outputs, the Memorandum specifies the group to work jointly to promote clean and renewable energy, increase energy efficiency, advocate for regional and national climate policies, and to identify measures to adapt the climate changes. These activities
DEPUTY SECRETARY FOR CLIMATE CHANGE GIBBS: On the next slide, I list several of the benefits of collaboration which I think have borne out to be true as we've worked through this project.

Developing a regional Cap and Trade Program results in larger total emissions reductions, reduces overall cost to the program, and reduces the risk of leakage of jobs and emissions by creating a larger region. Coordinating on the broader climate program creates a larger marketplace for low carbon technologies. And finally, I listed here increased influence on federal and international efforts. I think this is particularly noteworthy because the initiative as a group has shared perspectives with our federal governments in the United States and Canada, including commenting on U.S. EPA proposed regulations, commenting on legislative proposals in Congress, and including briefing Congress on the hill last year. So when we are able to speak as a group from such a diverse set of states, it enhances our influence on our federal governments.

A few of the outputs as I've mentioned on the next slide --
DEPUTY SECRETARY FOR CLIMATE CHANGE GIBBS: The goal is 15 percent reduction below 2005 levels by 2020. This is the sum of the WCI partners' individual goals which each has adopted the goals economy wide and is to be achieved not solely by cap and trade, but cap and trade with other policies similar to approach that's been taking here in the Scoping Plan.

The goal realizes the need for greater long-term reductions. The goal that's been adopted in WCI is approximately the same as included in the California's AB 32 2020 emissions target, which is to return to 1990 levels. Turns out when you do the math, a 15 percent reduction below 2005 levels for the WCI partners is a return to approximately 1990 levels. So they're quite consistent.

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DEPUTY SECRETARY FOR CLIMATE CHANGE GIBBS: On next slide, I report on the status of the work on the Cap and Trade Program design. Through a very open and transparent process, the WCI has held public meetings, written white papers, developed recommendations that were in draft, and then final recommendations, held stakeholder meetings and conference calls, all creating a literature on the issues and perspectives necessary to develop a set of recommendations for Cap and Trade Program.
All this work is informed by the ARB staff deliberations who worked on various aspects, along with the staff of the other agencies that Executive Officer Goldstene mentioned.

And in September of 2008, there was a milestone achieved in WCI when it released a set of policy recommendations for the program outlining the broad objectives and the policy outlines for how the program would come into being. And just this month in about a week or so, the initiative will be releasing a more detailed set of recommendations addressing the topics that are listed here in bullet form.

These recommendations will form a road map really for the jurisdictions to use in developing our individual programs. The recommendations from the WCI are then able to be used by each of the jurisdictions to look at what works best for them and to adopt the program individually in each of the jurisdictions.

There's five partners currently using their authority to write regulations to move forward with the program. The five partners represent about 70 percent of the emissions in WCI. So although the actual adoption of the program in each of the jurisdictions may vary slightly from the actual details that are put forward by WCI, the expectation is that we'll be able to stay with the core...
principles of the program and enable the individual
programs and the jurisdictions to link together to create
a link to regional programs.
One of the recent milestones also achieved in WCI
on the next slide --

DEPUTY SECRETARY FOR CLIMATE CHANGE GIBBS: --
was the release of an updated economic analysis of the
program. The original economic analysis was produced in
2008. The update incorporates a variety of improvements
and updates that were recommended by stakeholders. And
the results continue to show that the WCI program can
reduce emissions with very modest savings to the economy.
The savings were estimated at two-tenths of one percent of
GDP. Basically, a wash in terms of what the costs and
savings may be.
A variety of sensitivity analysis was performed.
In some cases, the costs are a little higher. In some
cases, the savings were higher. But overall, the impacts
are quite modest.
The analysis includes policies that are
implemented with cap and trade and show they help reduce
emissions and limit cost. And overall, the study has
results that are similar to the ARB study that was
presented to the Board here in March. And a couple of
those conclusions or findings include that complementary
policies are important. They help reduce emissions and
reduce costs. That compliance flexibility is important.
In particular, the banking of allowances or the ability to
save allowances and use them in the future, as well as a
limited number of offsets used for compliance.

DEPUTY SECRETARY FOR CLIMATE CHANGE GIBBS: There
is a graph that shows the reference case of emissions in
terms of percent change from 2005. The reductions in
emissions that are estimated due to the program, including
breaking out those reductions in terms of reductions from
capped sectors and emissions reductions from offsets. You
recall I said that the emissions reduction goal was a 15
percent reduction, and you'll see here that we don't quite
cap at this graph. On the next page --

DEPUTY SECRETARY FOR CLIMATE CHANGE GIBBS: -- I
explained what that is. That is there's extra early
compliance in the program which enables allowances to be
saved early and then used later. So that gives us faster
emission reductions early and a little bit less emissions
reductions later.

On this slide, the blue line shows what the
program cap would actually require in terms of emissions.
And the red line shows what the analysis estimated in terms of how the industries would respond. And you see that early on the emissions are less than what's required. So there's extra reductions over compliance. And then those allowances are saved for later, and there is a little bit less reduction later. This basic flexibility reduces the cost of complying with the program.

DEPUTY SECRETARY FOR CLIMATE CHANGE GIBBS: The next slide shows a pie chart showing the emissions reductions achieved in each of the sectors. These are the emissions reductions relative to the reference case. Some might ask why there's relatively modest emissions reductions in the passenger vehicle section you'll see here. That's because the vehicle standards, the so-called Pavley requirements, are included in the reference case. So those are already included. And these are additional emissions reductions below that, so we don't double count them here. Those are already included in the reference case.

DEPUTY SECRETARY FOR CLIMATE CHANGE GIBBS: On the next slide, I just wanted to emphasize a couple of findings of the analysis and again say that allowance banking and offsets are important flexibility mechanisms
along with others in the program. Complementary policies are estimated to be significant and are important. And finally, that adaptability to changing conditions appears to be important. It isn't always the case that everything works out exactly as we expect. And some conditions can occur where costs are higher than we expect or costs are lower than we expect and having the ability to adapt when those things occur is important.

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DEPUTY SECRETARY FOR CLIMATE CHANGE GIBBS: So just wrapping up here the presentation, the ongoing activity is continuing to develop recommendations for the details to implement the program, continuing to evaluate complementary policies, working closely with stakeholders to get review and comments on the activities.

And I think also importantly are discussions that we’ve initiated with the other regional initiatives in North American, the Regional Greenhouse Gas Initiative, which is up and running, and the Midwest Greenhouse Gas Reduction Accord.

Talking about our common interests and looking at several issues, one of which is defining criteria to assure that offsets that are used across these programs are all of high quality and that could be recognized as such across all the programs. The three groups have
already issued a paper together on offset quality which we find is gaining some traction and influence in the national debate on how to develop an offset program.

Finally, the WCI remains in discussions with our federal governments, both the U.S. EPA and Environment Canada. Both USA and Environment Canada participate in our WCI meetings as well.

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DEPUTY SECRETARY FOR CLIMATE CHANGE GIBBS: So on the last slide, just for more information, of course, WCI has a website at which we can see all the WCI partner representative information, all the documents and stakeholders comments and a list serve that's available for announcements.

So I'm happy to take any questions or comments at this time. Thank you.

CHAIRPERSON NICHOLS: Thank you very much.

I just wanted to comment, because this is a somewhat unusual process. I guess I had some experience with it when I was at U.S. EPA and groups of states would get together at the regional level without any specific mandate to do so, but with the common agreement that they wanted to work together on a project.

WCI doesn't have any legal status. The people who participate are there voluntarily. They are high
level political appointees, such as yourself, or very senior technical staff in the agencies that are involved. And clearly, they have continued in this effort over time, because they share a common concern about trying to develop really strong and viable climate protection programs. And they're now at the point where they're putting forth some very specific recommendations and hoping to get some reaction from their government entities and to try to move the process forward. If we are successful at the level of the United States government in producing a climate program, it will be very largely due to the efforts of the states like WCI and RGGI and the other groups that have come together and just done so much of the raw work that has to be done to develop these kinds of complicated programs. So I'm just really impressed by what WCI has been able to produce so far and the level of thinking and the level of agreement that has been hammered out. These are not easy things to bring together. And so it's going to be very interesting to see if it precedes on to the next step, given the fact that, you know, there is elections going on, certainly in this country. And there will be changes at the top of all states, including this one, you know, whether something like this can proceed. But it seems there's a lot of weight behind it. And I think
whatever happens, the products that they're putting out are going to get serious attention and have influence going forward.

So I just thought it could be interesting for the Board members to get a glimpse of all of this that we're helping to support with our staff.

I guess the question of resources always comes up in situations like this. How has this effort been funded? Because there's obviously been a lot of work that's gone into it.

DEPUTY SECRETARY FOR CLIMATE CHANGE GIBBS: Sure. Thank you for the question.

There's a couple different aspects of the work of WCI that require resources. Most of the actual technical work is done by staff from the different states and provinces.

In California, as we mentioned, we've had staff from the Air Resources Board, the Public Utilities Commission, the Energy Commission, and the Attorney General's Office all providing their expertise as part of the work.

And I would say that's the majority of the resources that go into the effort is the technical expertise from the staffs from all the states and provinces, each of which seem to bring their own unique
10:39:47 capabilities and contributions to that discussion.
10:39:52 In addition, we have had some consultants and
10:39:55 experts brought on under contract through our project
10:39:59 manager who happens to reside at the Western Governors
10:40:03 Association. So the funding for that comes in part from
10:40:09 voluntary funding that comes from again each of the states
10:40:12 and provinces that have put money essentially into that
10:40:15 pot to enable to fund those things. But also from some
10:40:20 foundations that have funded specific projects and
10:40:23 specific things that we've done, including I would say the
10:40:26 most significant pot of funding coming to support the
10:40:31 economic analysis, which was not surprisingly a large
10:40:34 technical piece of work that we used a contractor for that
10:40:39 had some models that we're able to apply here. And that
10:40:42 money came from foundations.
10:40:44 So it's been a variety of sources. And we really
10:40:46 appreciate all the support that has gone into that and
10:40:50 enabled the work to proceed.
10:40:52 CHAIRPERSON NICHOLS: Thank you.
10:40:53 We do have one person who signed up to speak to
10:40:56 us on this item, and that's Derrick Walker from the
10:41:00 Environmental Defense Fund.
10:41:06 Good morning, Derrick.
10:41:08 MR. WALKER: Good morning, Chair Nichols and
10:41:09 members of the Board.
I couldn't say it any better than the Chair just said about the importance of the WCI. But I wanted to reinforce it as a stakeholder that's been working on WCI issues with Michael, Kevin and others since the very beginning back in 2008. This is a quintessential example of California's leadership magnifying itself across the region and having an impact on the discussions that are occurring nationally here in the U.S. and in Canada, as well as I've been with some of the members of the administration at some of the international meetings the UN meetings, and the WCI is a topic of interest there.

I think there's great economies of scale. I think there's great opportunities to share knowledge and technology, especially on things like the electricity sector where we share a common transmission system with other western states. I think there is great synergies, and just both the dialogue and some of the commitments that have been discussed with the Western Climate Initiative are absolutely critical.

So I would urge the Board to remain attentive and supportive to this important program. And thank you for your attention.

CHAIRPERSON NICHOLS: Thank you very much.

Okay. Any other questions or comments by members of the Board? Yes.
BOARD MEMBER LOVERIDGE: One just very, very quick question.
Slide 12, help me out on what the reference cases -- you mentioned it, but it has no reference. So I was trying to figure out what the --

DEPUTY SECRETARY FOR CLIMATE CHANGE GIBBS: Sure. Thank you very much, Mayor, for the question.
The reference case -- actually, I think it's perhaps shown on the slides before. Backwards. Is that the reference case you're referring to?

BOARD MEMBER LOVERIDGE: On slide 12, it says "share reductions below reference case."

DEPUTY SECRETARY FOR CLIMATE CHANGE GIBBS: On the pie chart.
These are all emissions reductions below what is called in this economic analysis type of modeling exercise a reference case, which is the case of what would happen without your policies in place. And the reference case in this example includes several policies that are considered settled, that they're in place. So they're part of the existing environment of policy you might say, and now we're looking at what we might do to go beyond that.

So in this example, the Pavley regulations are considered part of the reference case. They're already in place, and all their impacts are already considered. So
these changes here that we see, for example, the ten percent reduction in passenger, does not reflect the emissions reductions associated with Pavley because those are already counted. So we would not count them again.

CHAIRPERSON NICHOLS: Question, Ms. D'Adamo and then Dr. Telles.

BOARD MEMBER D'ADAMO: If we could go to slide 3.

I just want to get a sense of who's left out there. If we were to combine RGGI and WCI, what part of the country?

Is it just the middle part of the country that's left out of the picture? And what's being done on east and west coast to expand membership so that the entire country is covered?

DEPUTY SECRETARY FOR CLIMATE CHANGE GIBBS:

Right. As I mentioned, there's three initiatives that are active in the United States -- well, in North America really. RGGI, which is the northeast has ten states, and they cover from Maine down to Maryland, not including Pennsylvania. I can list them if you'd like:

Connecticut, Delaware, Maine, Maryland, Massachusetts, New Jersey, New York, New Hampshire, Rhode Island and Vermont. That covers the northeast.

The midwest has assembled a group to develop a proposed Cap and Trade Program. They're not starting their program right now, but have put out a specific set
of design recommendations. That includes six states and one Canadian province: Iowa, Illinois, Kansas, Michigan, Minnesota, and Wisconsin. And then Manitoba also participates there as well with WCI. So that is really the upper midwest.

What's not currently to the best of my knowledge included in a regional initiative of this type is the southeast and moving over into the south.

CHAIRPERSON NICHOLS: So at one point there was a group of southeastern governors that were talking about pulling together some form of regional initiative. But I think various distractions have taken away the energy behind that.

BOARD MEMBER D'ADAMO: Is there any effort by RGGI or the upper midwest to move into that territory, help organize them somehow?

DEPUTY SECRETARY FOR CLIMATE CHANGE GIBBS: Well, I can't speak about all the discussions and RGGI and the midwest.

What I can say is in the Western Climate Initiative, which although it's still called western, if we look at the map, we go all the way to eastern Canada. We have continued to reach out and to try to expand our membership, including into the midwest and south. And one of the things we're working on now is as we put out our
recommendations on cap and trade, focusing on other
elements of our comprehensive program, particularly around
the other policies, and trying to expand the partnership
around those things, around energy efficiency, renewable
energy, and other things that really help in a whole
variety of ways. And we're hopeful we'd be able to expand
the partnership. And that may be one avenue for expanding
in that direction.

BOARD MEMBER D'ADAMO: Thank you.
CHAIRPERSON NICHOLS: Sorry. Dr. Telles.
BOARD MEMBER TELLES: Thank you.
I had a few questions about the goals. The WCI
represents it looks like two-thirds of -- California
representatives about two-thirds of the population in the
Western Climate Initiative. What is the difference in
goals set by each state?
When I was reviewing the renewable portfolio
standard information, there was quite a bit of difference
in renewable portfolio standards in the states which are
members. And California has a certain goal. And what is
the actual goals by the other states?
DEPUTY SECRETARY FOR CLIMATE CHANGE GIBBS:
Thanks.
I don't actually know them all off the top of my
head. Each of the states and provinces has adopted a
specific goal for the economy-wide emissions reductions by 2020. Some are more stringent or significant than California has adopted. For example, the state of Washington has in their statute an emissions goal to reduce emissions by 2020 to 10 percent below 1990 levels, whereas our goal is to return to 1990 levels. So that's more stringent.

Similarly, British Columbia's goal I think is the most ambitious among the WCI partners, which is a 30 percent reduction below 1990 levels. Plus, they have additional goals, such as carbon neutral government operations by 2012 I think it is. So there is a range.

New Mexico's goal, my recollection, is more similar to ours, 1990 -- return to 1990 emissions by 2020. So there is a range.

When we added them all up to create the regional goal, it turned out to be approximately California's goal in part because actually across all of WCI California is about 40 percent of the total in terms of emissions. So we were influential in that calculation, but nonetheless, some were more and some were less.

BOARD MEMBER TELLES: Another question. Do any of the other states have a Cap and Trade Program that's ready to launch?

DEPUTY SECRETARY FOR CLIMATE CHANGE GIBBS: As I
mentioned, there's five partners, including California, that are currently writing regulations to launch the program in 20120. These five are: Quebec, Ontario, British Columbia, and New Mexico -- New Mexico recently published their draft regulations similar to what we've done here in California for their Cap and Trade Program. Those five partners represent about 70 percent of the total emissions in WCI. Again, California being the largest among them.

And just to provide some perspective, those emissions of those five partners in a Cap and Trade Program would be about three times the size of RGGI. So the emissions that would be covered in those five partners would be about three times the size of the emissions covered in the RGGI program.

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

DEPUTY SECRETARY FOR CLIMATE CHANGE GIBBS: That's correct. They actually adopted the Cap and Trade Program as policy and are now writing regulations in a manner similar to the process that we're going through here to write regulations and bring them forward for consideration.
CHAIRPERSON NICHOLS: And my understanding is that their cabinet is meeting next week to review the regulations. So they're at least as far as long as we are in the process.

DEPUTY SECRETARY FOR CLIMATE CHANGE GIBBS: I think they're actually the furthest along. And we actually here in California were the first to publish a draft reg, which was last fall. And now New Mexico has also published their draft regulation, and Ontario and Quebec are working very hard on theirs. We have a side working group who work on the regs from the different partner jurisdictions who have calls to talk about the status, the issues they're coming up with, how they're writing things. And this document we'll be releasing next week will represent a lot of that discussion and the recommendations that come out of WCI.

BOARD MEMBER TELLES: One final question is for the states and provinces that go out first, will there be any banking of credits? I mean, put their economy on the line first as far as trying to get to these goals. Is there any banking that's going to be recognized by the WCI?

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

BOARD MEMBER TELLES: They'll reduce their
emissions at a faster rate than some of the other members and probably faster rate than the rest of the United States. And whether it be some kind of credit for reducing your emissions earlier and the WCI and also, of course, there's no national program now. But is there a discussion at some kind of national level to get some credit for reducing their emissions earlier?

DEPUTY SECRETARY FOR CLIMATE CHANGE GIBBS:

Right. So I think there is a couple aspects to that question. One is assuming we move forward in WCI and the five get started and others join later, what does it mean for others to be joining later? And the principle thing is they would still have their same emissions target to achieve by 2020, so their emissions ramp-down would be steeper if they start later. So in a sense, that makes it more difficult for them by delaying in their start. But we certainly welcome others to start and join with us as we go. We're hopeful as those of us who are able to get started first can demonstrate how the program works and that it works well that others will join. I think that's something we want to encourage. We also have in the United States, of course, the hope I would say and perhaps even expectations that at
some point there will be a comprehensive federal program and part of the discussion has been ensuring that any transition from a state or regional program into the federal program would not disadvantage those who went first, and in fact should advantage those who went first. And part of that is the transition of the actual compliance instruments themselves, so-called emissions allowance and ensuring those who acquired them through the regional and state programs, in fact, continue to be recognized for those allowances and those compliance instruments. So that's been in the federal proposals. Of course, RGGI is up and running and has paid very close attention to that element of a federal program and WCI also paid attention to that.

CHAIRPERSON NICHOLS: There's no action called on here, but hopefully it's been an opportunity for people to catch up with what's been going on in this very interesting project. And it will be relevant as we move forward this year on further discussions. So thank you. Thanks very much, everybody. We have time on our agenda for Board members to raise issues as well as for general public comment. And I know that Supervisor Roberts had a question he wanted to raise.

BOARD MEMBER ROBERTS: Thank you, Madam Chair. I was wondering if maybe the staff could share...
with us just a brief status report of where we are with
the diesel truck rules and schedule wise and programmatic
wise what is going on there now.

EXECUTIVE OFFICER GOLDSTENE: Thank you,
Supervisor Roberts.

As you know, we plan to come back to the Board in
September with an update on the truck and off-road rules.
And we're finding some challenges with being able to make
that date. And I wanted to give Tom Cackette and Lynn
Terry an opportunity to give you an update on where you
are. Most likely, we're going to move the item to the
November Board meeting.

CHIEF DEPUTY EXECUTIVE OFFICER CACKETTE: When we
discussed the status with you earlier this year, some of
the challenges that we were working on was a major update
to the emission inventory, because there had been a lot of
new information presented both for on-road trucks and
off-road trucks.

As you know, we've had the discussion about the
sort of health risk of science that would support this.
And we're producing a new report on that that we've
discussed with you before. Both of those items are
looking like they would be publicly available sometime
next month. So that's a little too close to the September
Board meeting for us. So that's why we need a little
We did go out and have workshops in June and July with all the stakeholders. And one of the messages that came back strongly was they wanted some time after we put these documents or findings out to be able to comment on them before we use that information to inform the final regulations. So we have shared regulatory concepts somewhat more developed than what we shared with you in the last year and early this year, but we do not have yet a actual draft regulation, because it will be to some degree -- quite a bit of degree informed by the new inventory and the health data.

So when you put the sequence of events together, we'll get this work done probably in the August time frame. We'll have some public review time available to take inputs on the new scientific information and put the draft regulations together. It basically means November.

BOARD MEMBER RIORDAN: Madam Chair, if I may --

BOARD MEMBER ROBERTS: Go ahead.

BOARD MEMBER RIORDAN: I have attended the two workshops in El Monte, and I can tell you there is great deal of interest. The attendance was excellent. People were there. Staff interacted very well with the attendees.
and heard from them.

I think to have the extra month is a wise thing. It may allow for some more interaction, more workshop opportunities. In a workshop setting, you have people who are very sophisticated who have been at our hearings throughout the whole process. And then you have people who have suddenly realized that yes, this is something that's going to happen. I better get there. So the staff has really had to educate in the process of the meeting and the workshop. And so I think to have an extra month is a wise, wise thing -- or two months.

CHAIRPERSON NICHOLS: Two months really.

So the concern obviously that we need to balance with this is whether the industry is going to be so anxious about what's happening since we've given them an indication there was going to be some relief here, but we're not telling them what it is, that this would put them in an unfair position while we're perfecting the regulation.

I agree that perfection is a goal, but we should really be concerned about what kind of message we're sending to the regulated community. And the staff has assured me that at least at the level of the people that attend the workshops that they would rather have us get it right than the extra two months and that nobody is really
10:59:09 1 facing any penalties as a result of our taking more time.
10:59:13 2 But I think we'd like to have that said for the record if
10:59:17 3 at all possible.
10:59:18 4 Can you add something to that?
10:59:21 5 CHIEF DEPUTY EXECUTIVE OFFICER CACKETTE: No.
10:59:22 6 There's exactly right. The overwhelming response I think
10:59:26 7 from the stakeholders was get it right. Let us -- I mean
10:59:31 8 the stakeholders -- look at what we've done and see if we
10:59:34 9 believe you've got it right and then go ahead with the
10:59:37 10 regulation.
10:59:37 11 And part of the reason why I think there's not a
10:59:40 12 great concern about the existing reg right now is that we
10:59:43 13 did indicate that even though some deadlines are looming,
10:59:46 14 like for the truck rule January 1 of 2011, that since we
10:59:52 15 had originally proposed we're going to make some changes
10:59:55 16 in March or April, that we would shift those deadlines
10:59:59 17 administratively -- in other words, would be enforce them
11:00:03 18 to reflect the longer time we're taking to resolve the
11:00:06 19 underlying science inventory and things like that.
11:00:08 20 So I think people know that and were committed to
11:00:11 21 do that. So those deadlines aren't really looming as
11:00:16 22 strong as one might think if you just read the reg.
11:00:20 23 CHAIRPERSON NICHOLS: Supervisor.
11:00:22 24 BOARD MEMBER ROBERTS: When do you participate
11:00:24 25 the draft rule will be available for review?
11:00:27   1 CHIEF DEPUTY EXECUTIVE OFFICER CACKETTE: It's a regulation. It's the usual 45 days. So I believe it's just at the end of September for a November hearing. It's a little bit early because of Thanksgiving.

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

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

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

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

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

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

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

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

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

11:01:35   25 Now I'll be quiet.
BOARD MEMBER Balmes: I just wanted to clarify one point. First of all, I support taking some time to get it right. So I have no problem with the delay that you mentioned. And I also support releasing the PM mortality report. I think I was the one who moved that we redo the report. But just to be clear, we're adapting -- we have adapted diesel truck regulations to meet our SIP requirements with regard to PM2.5. The PM mortality document is a supporting document for that effort, and we would be dealing with the truck rule whether we had that report or not. Just to be clear.

Chairperson Nichols: Say "yes," don't just nod. Executive Officer Goldstene: Yes. Chief Deputy Executive Officer Cackette: Yes. Chairperson Nichols: I could see you nodding, but perhaps the audience couldn't. All right. Is that sufficient discussion for the moment then?

Board Member Berg: I would just like to make one comment.

Chairperson Nichols: Ms. Berg.

Board Member Berg: We are still doing
implementation workshops, and there are other companies out there trying to help get the word out. I think it would be really helpful from -- and I did attend a meeting yesterday where there was 150 people at this meeting. And CARB did a great job in giving a presentation.

But I think it would be helpful in our presentations if we were to look at and to say this is exactly what you need to do now, whatever, the reporting, we are doing the idling, the things that we are enforcing. And then instead of doing the normal presentation, which is this is what the rule is, this is what we're looking to change because when people look at that, they leave as confused as when they came.

I think during this interim spot, as Mrs. Riordan suggested, we need to be very specific in what the regulated community needs to do, what is "on hold" and then what we're going to be addressing then in November. Does that make sense?

EXECUTIVE OFFICER GOLDSTENE: Yes. I'm nodding and I will say yes. Excellent idea. We'll try to incorporate as much as that --

CHAIRPERSON NICHOLS: It's nice to see that you respond so quickly.

EXECUTIVE OFFICER GOLDSTENE: I want to make sure Tiffany gets it in the record.
We'll try to be as clear as we can even in the announcement which we hope to put out tomorrow or early next week.

CHAIRPERSON NICHOLS: I think that's an important suggestion.

BOARD MEMBER ROBERTS: Where will the workshop be in August?

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

CHAIRPERSON NICHOLS: Okay. And I hope you'll advise the Board members of the locations of those workshops. I gather several of them have been following them, but I think probably everybody would like to know.

So if you could get that information out, that would be great.

Okay. If there are no other items that Board members want to put before us, we would go to public comment at this time. We have one person who signed up, Tim Carmichael representing CNGBC.

MR. CARMICHAEL: Good morning, Chairman Nichols, members of the Board.

Tim Carmichael with the California Natural Gas
I just wanted to bring to your attention earlier this week, the Air Board with U.S. EPA hosted a workshop on heavy-duty diesel trucks at your El Monte facility focused on the SCR, selective catalytic reduction systems. I won't get into the background, but at that workshop, Navistar engine company presented their research on four new diesel engines running with SCR and showed to the audience that the systems do not de-rate, that is perform less than they should, when the SCR system runs out of the urea. And, in fact, they also showed that you can put water in the system and continue to run it. And the truck thinks it's running on an emission reduction system and it's just running on water. They tested the emissions and found that the emissions are 10 to 30 times higher when the SCR, the urea runs out. So this is really serious. It's not an active, if you will, like the defeat device tampering that we saw a decade ago. But it's a passive non-compliance with the federal and State engine standards for 2010 heavy-duty engines. So my request -- my first thing is I want to bring it to your attention, because we think this is
really serious. At that workshop, Coalition for Clean Air, Environment Now, and Navistar made a request of ARB and EPA staff to act on this. And the staff's response were we're not authorized to act on this. This is new information to us.

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

That's it.

CHAIRPERSON NICHOLS: Thank you.

This item came to my attention first as a result of some litigation where ARB was sued along with U.S. EPA by Navistar --

MR. CARMICHAEL: Real quickly on that, the workshop was a result of settling that litigation. In exchange for dropping the litigation, the agencies agreed to hold this workshop to hear out the concerns of one engine manufacturer that's using a different technology saying this is not fair, because you're allowing these engines to operate with this technology, and it's not working.
CHAIRPERSON NICHOLS: Right.

So, well, obviously holding a workshop was the required thing to do, but the information suggests there might be some further action called for.

Does the staff have any response at this time?

Should I ask you to get back to us?

CHIEF DEPUTY EXECUTIVE OFFICER CACKETTE: Yes,

let me know if more background is needed on how we got here. But I've not seen the video yet because of technical difficulties. I couldn't make my computer show it yesterday.

But I did talk to my staff about it, and I don't think that the video accurately portrays the performance of these vehicles. There was sort of an implication that one of the trucks was simply not complying with the rules, which have this detection capability to make sure that the urea that makes the SCR systems work is on board and being used by the vehicle.

And if that's the case -- I don't know that to be the case -- but we will certainly take enforcement action immediately as soon as we can confirm that.

I think the general sense of my staff's review of it is that the video part is a bit selective in what it's showing. And we are in the process right now of looking at it very carefully and trying to figure out.
You can imagine that all of the engine manufacturers other than Navistar who all use SCR had the hair up on the back of their neck saying, wait a minute. We don't agree with this. So we want to hear from both sides of the story here.

The context of all this is that when urea first -- SCR with urea first came out, we have a national uniform standard for heavy-duty trucks. We have it on our books, but the standards are the same as the federal government. And how the assurance of urea being on board and being used to make the SCR reduce NOx was an issue of debate. And EPA came out with some guidance. And because of the national aspect, we decided to go ahead and follow their guidance. And the Navistar lawsuit occurred because Navistar, the only one that doesn't use SCR, believed the guidance was too lax.

So we went through a debate of that. And I think the long-term intention was always to tighten it up over time. But the initial certain was, well, will the urea be available enough places so we needed to have some periods of time when if you run out you could perhaps keep operating your vehicle before they found the urea. That's rapidly being solved, because urea is at more and more truck stops. It was our plan anyway to tighten up on this action, but the lawsuit settlement is sort of accelerating
That's what the workshop was about, how do we tighten this up a little bit so that there's a minimal amount of time when any one truck would be out of urea but still operating.

The video is much more of an attack on the fundamental effectiveness of SCR, and we remain convinced that that technology is a really good one and being used, like I said, on everybody but Navistar's engines. Used throughout Europe for years now. And if there is any indication that we've misjudged this, we'll certainly get to the bottom of it. But I think it's a matter of a transitory tightening up of the rules to make sure that it's non-functional for as few miles as possible.

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

CHIEF DEPUTY EXECUTIVE OFFICER CACKETTE: No. We do, yes. And the settlement agreement essentially -- and we concurred in this. The settlement agreement basically says that the day after we do this workshop -- this was
sort of the trigger event -- that any 2011 certifications
for heavy-duty diesel trucks will follow the guidance, the
new guidance. And so that basically is the tightening up
of the rules.

CHAIRPERSON NICHOLS: I see.

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

There were examples under the original guidance
where it could go 500 miles or even some circumstances a
thousand miles before this de-rating of the engine would
occur that would force the installation of a new tank of
urea. And that was clearly too lax, especially given that
the urea network is now quite substantial across the
country. So you can get it at most truck stops.

CHAIRPERSON NICHOLS: Okay. If there no further
comments on this item --
MR. CARMICHAEL: Can I just clarify one thing? I just want to make sure the Board understood. I was not here saying SCR doesn't work. I was saying that from this workshop there are concerns raised about systems where the SRC stops working and the vehicle keeps running and the emissions go way up, because the SCR system is not working, as Tom was elaborating on. I just want to clarify that distinction. I'm not here saying SCR doesn't work when it's working properly. These systems seem to be allowing the SCR system to stop working and the engine to keep running. That's not okay.

CHAIRPERSON NICHOLS: Thank you.

I have no other witnesses who signed up for public comment today. So I think it's time to entertain a motion to adjourn.

BOARD MEMBER LOVERIDGE: So moved.

BOARD MEMBER RIORDAN: So moved.

CHAIRPERSON NICHOLS: And seconded. We will be adjourned.

(Thereupon the Air Resources Board meeting adjourned at 11:14 a.m.)
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 4th day of August, 2010.

TIFFANY C. KRAFT, CSR, RPR
Certified Shorthand Reporter
License No. 12277