

Press Critical of CARB Diesel Science & Regulations

May 21, 2008 to January 9, 2010

January 9, 2010

<http://www.ocregister.com/articles/california-diesel-health-2047459-exhaust-carb>

The Orange County Register May 21, 2008

Diesel-exhaust risks: mostly hot air?

Opinion: By HENRY I. MILLER

Miller, a physician and molecular biologist, is a fellow at Stanford University's Hoover Institution.

If you were strapped for cash and lived in North Dakota, would you spend money on hurricane insurance? That would be as foolish as the recent actions of the [California Air Resources Board](#), part of the California [Environmental Protection Agency](#). As part of its mandate to ensure good air quality in the state CARB has begun to implement a program to reduce the diesel exhaust emissions from freight movement along California's trade corridors, including its seaports (which require huge amounts of truck traffic to transport arriving and departing containers).

This "Goods Movement Emission Reduction Plan" (GMERP) is the result of a determination in April 2006 by CARB that diesel exhaust particulate matter represents a significant health threat to Californians, supposedly causing respiratory diseases and 2,400 premature deaths per year. (Fine particulate matter is very small soot that diffuses deep into the lungs.)

Public funding for this initiative comes from a transportation bond approved by California voters in 2006 that provides a billion dollars to implement reductions in diesel exhaust emissions. However, a large coalition of California truck owners, farmers, construction contractors, and business and community leaders has raised serious concerns about GMERP. This coalition recently estimated that applying these new emissions regulations to the approximately 2.3 million diesel trucks that move goods throughout California could cost at least \$8 billion.

This new burden could further damage the state's economy, which is already faltering in the face of falling real estate values and confiscatory taxes. Moreover, California will be at a competitive disadvantage because no other state has a similar diesel emissions reduction program.

The fundamental question is whether this project is a cost-effective use of public and private resources.

To answer that question, let's begin at the beginning. How solid is the evidence that diesel exhaust particulate matter is a significant threat to the health of Californians? CARB's estimate that particulate matter is responsible for 2,400 premature deaths appears to be based primarily on a 2005 epidemiological study from USC that found a substantial association between fine particles and mortality in the Los Angeles basin during 1982-2000.

Other research, however, including experimental laboratory evidence, has failed to confirm those findings. In particular, a major nationwide study released in 2000 by the [Health Effects Institute](#) in Boston found no excess mortality risk associated with fine particles in California during 1982-89, and a large and detailed 2005 epidemiological study from [UCLA](#) found no association between fine particulate matter and mortality in elderly Californians during 1983-2002. Likewise, the U.S. Environmental Protection Agency's voluminous 2002 report "Health Assessment Document for Diesel Engine Exhaust" did not conclude that diesel exhaust causes premature deaths. Moreover, current levels of particulate matter in California's air are the lowest ever recorded.

All of this indicates that CARB has exaggerated the adverse health effects of diesel exhaust and tried to portray these effects as being firmly established.

The GMERP is already creating mischief and damaging the state's economy. A recently adopted plan to clean up the air in and around the Port of Long Beach by replacing thousands of aging diesel trucks is creating havoc among trucking company employees and independent truck drivers over how this costly plan will be implemented, and there are efforts under way to establish a new port in Baja California because of the onerous, debilitating environmental regulations and constraints on development at the ports of Long Beach and Los Angeles (the two busiest in the United States). This new Mexican port would siphon billions of dollars away from the California economy and cause the transfer of many lucrative trucking and port jobs across the border.

CARB fails to appreciate that regulation intended to reduce health risks imposes costs that must be weighed against the benefits. The direct and indirect expenses related to government programs - for purposes good, bad, or indifferent - exert an "income effect" that reflects the correlation between wealth and health. The accumulation of wealth by societies is necessary to fund medical research, build schools, support infrastructure and sanitation, and even to improve environmental amenities. It is no coincidence that richer societies have lower mortality rates and cleaner environments than poorer ones. Thus, to deprive communities, or individuals, of wealth is to increase their health risks. Conversely, the deprivation of income itself has adverse health effects, including an increased incidence of stress-related problems, including ulcers, [hypertension](#), heart attacks, depression and suicide.

It is difficult to quantify the relationship between the deprivation of income and mortality, but academic studies suggest that every \$5 million to \$10 million of regulatory costs will induce one additional fatality through this "income effect." (Thus, the conservatively estimated direct and indirect costs of the GMERP could themselves cause on the order of 2,000 deaths.)

At a time when the California economy is slowing, and the state faces a huge budget deficit, state officials must establish priorities rigorously. Before expending scarce state resources on GMERP and placing a huge financial burden on the trucking industry - costs that will be passed on to businesses and, ultimately, to consumers - CARB should reassess the overall health effects of diesel exhaust in California and the relationship between fine particles and mortality. If CARB does not change course, billions of pollution-reducing dollars will, in effect, vanish into thin air.

<http://www.washingtontimes.com/news/2008/may/27/diesel-risks-mostly-hot-air/>

The Washington Times May 27, 2008

COMMENTARY: Diesel risks mostly hot air?

By Henry Miller

If you were strapped for cash and lived in North Dakota, would you spend money on hurricane insurance? That would be as foolish as the recent actions of the [California Air Resources Board](#) (CARB), part of the California Environmental Protection Agency. As part of its mandate to ensure good air quality in the state - a laudable goal - CARB has begun a program to reduce diesel exhaust emissions from freight moving along [California's](#) trade corridors, including its seaports (which require huge amounts of truck traffic to transport arriving and departing containers).

This "Goods Movement Emission Reduction Plan" (GMERP) is the result of a determination in April 2006 by CARB that diesel exhaust particulate matter represents a significant health threat to Californians, supposedly causing respiratory diseases and 2,400 premature deaths per year. (Fine particulate matter is very small soot that diffuses deep into the lungs.)

Public funding for this initiative comes from a transportation bond approved by California voters in 2006 which provides \$1 billion to reduce diesel exhaust emissions.

However, a large coalition of California truck owners, farmers, construction contractors and business and community leaders has raised serious concerns. The coalition recently estimated that applying the new emissions regulations to the 2.3 million or so diesel trucks that move goods throughout California could cost at least \$8 billion.

This new burden could further damage the state's economy, already faltering in the face of falling real estate values and confiscatory taxes. Moreover, California will be at a competitive disadvantage because no other state has a similar diesel emissions reduction program. The fundamental question is whether this project is a cost-effective use of public and private resources.

To find an answer, let's begin at the beginning. How solid is the evidence that diesel exhaust particulate matter is a significant threat to the health of Californians? CARB's estimate that particulate matter is responsible for 2,400 premature deaths appears to be based primarily on a 2005 epidemiological study from the University of Southern California that found a substantial association between fine particles and mortality in the Los Angeles basin during 1982-2000.

Other research, however, including experimental laboratory evidence, has failed to confirm those findings. In particular, a major nationwide study released in 2000 by the Health Effects Institute in Boston found no excess mortality risk associated with fine particles in California during 1982-1989, and a large and detailed 2005 epidemiological study from the University of California-Los Angeles found no association between fine particulate matter and mortality in elderly Californians during 1983-2002.

Likewise, the U.S. Environmental Protection Agency's voluminous 2002 report "Health Assessment Document for Diesel Engine Exhaust" did not conclude that diesel exhaust causes premature deaths. Moreover, current levels of particulate matter in California's air are the lowest ever recorded in the state.

All this indicates CARB exaggerated the adverse health effects of diesel exhaust and tried to portray them as firmly established.

The GMERP is already creating mischief and damaging the state's economy. A recently adopted plan to clean up the air in and around the Port of Long Beach by replacing thousands of aging diesel trucks is creating havoc among trucking company employees and independent truck drivers over how this costly plan will be carried out. And there are efforts to establish a new port in Baja California because of the onerous, debilitating environmental regulations and constraints on development at the ports of Long Beach and Los Angeles (the two busiest in the United States). This new Mexican port would siphon billions of dollars away from the California economy and transfer many lucrative trucking and port jobs across the border.

CARB fails to appreciate that the expenditure of public monies is a zero-sum game, and that regulation intended to reduce health risks imposes costs that must be weighed against the benefits. The direct and indirect expenses related to government programs - for purposes good, bad, or indifferent - exert an "income effect" that reflects the correlation between wealth and health.

The accumulation of wealth by societies is necessary to fund medical research, build schools, support infrastructure and sanitation, and even improve environmental amenities. It is no coincidence that richer societies have lower mortality rates and cleaner environments than poorer ones. Thus, depriving communities, or individuals, of wealth increases their health risks. Conversely, the deprivation of income itself has adverse health effects, including an increased incidence of stress-related problems, including ulcers, hypertension, heart attacks, depression and suicide.

It is difficult to quantify the relationship between loss of income and mortality, but academic studies suggest every \$5 million to \$10 million of regulatory costs will induce an additional

fatality through this "income effect." (Thus, the conservatively estimated direct and indirect costs of the GMERP could cause about 2,000 deaths.)

At a time when the California economy is slowing and the state faces a \$15 billion to \$20 billion budget deficit, state officials must establish priorities rigorously.

Before expending scarce state resources on GMERP and placing a huge financial burden on the trucking industry - costs that will be passed on to businesses and, ultimately, to consumers - CARB should reassess the overall health effects of diesel exhaust in California and the relationship between fine particles and mortality.

If CARB does not change course, billions of pollution-reducing dollars will, in effect, vanish into thin air.

<http://www.arb.ca.gov/newsrel/nr102408.htm>



Release 08-96
FOR IMMEDIATE RELEASE
October 24, 2008

Karen Caesar
(626)575-6728
www.arb.ca.gov

ARB unveils proposed rules to reduce big rig pollution

*Regulations expected to prevent 9,400 premature deaths, improve air quality,
reduce greenhouse gases;
more than \$1 billion in funding assistance available for business owners*

SACRAMENTO - The Air Resources Board today made available today for public comment its latest draft version of two landmark regulations that, if adopted at the Board's December hearing, will clean up emissions from the estimated one million heavy-duty diesel trucks that operate in California beginning in 2010.

The first proposed regulation will require truck owners to install diesel exhaust filters on their rigs starting in 2010, with nearly all vehicles upgraded by 2014. Owners must also turn over engines older than the 2010 equivalent according to a staggered implementation schedule between 2012 and 2022. Further, long haul truckers must install fuel efficient tires and aerodynamic devices on their trailers that lower greenhouse gas emissions and improve fuel economy.

The state is offering truck owners more than a billion dollars in funding opportunities to help with the cost of the proposed diesel rule. Funding options include Carl Moyer grants, which are designated for early or surplus compliance with diesel regulations; Proposition 1B funds, for air quality improvements related to goods movement; and AB 118, which establishes a low-cost truck loan program to help pay for early compliance with the truck rule.

Diesel emissions are toxic, associated with cancer, and can also exacerbate cardiovascular and respiratory ailments. The truck regulation is expected to save 9,400 lives between 2010 and 2025, and greatly reduce health care costs. These benefits have a value of \$48 to \$69 billion. The cost of installing the trailer greenhouse-gas-reducing technologies will be quickly paid back through lower fuel use.

"This diesel regulation is absolutely vital to the well-being of all Californians, but we know there are financial challenges," said ARB Chairman Mary D. Nichols. "The Governor, legislature and voters have approved more than a billion dollars in loans and grants to truckers and business owners to help them comply with this crucial public health measure. If passed, these regulations

will ultimately help improve both public health and the economy, especially when you account for the reduced health care costs we will see thanks to fewer hospital visits, mortalities and work days lost caused by exposure to big rig diesel exhaust."

ARB staff held dozens of workshops and met with hundreds of business owners and other stakeholders over the last 18 months. Flexible funding options exist and the ARB is working to create more so that this regulation can be fully implemented at the lowest cost and we can all benefit from vastly improved air quality.

Without this regulation, California will not be able to meet U.S. EPA-mandated air quality standards and deadlines, and could subsequently lose billions of dollars in federal highway funding.

To provide flexibility, the diesel regulation is structured so that owners can choose from among three compliance options to meet regulation requirements. There are exceptions to the regulation, including low-use vehicles, emergency and military tactical vehicles, and personal use motor homes. School buses would be subject only to requirements for reducing diesel particulate matter and not for engine replacement.

To better assist truckers, ARB is evaluating ways to integrate these programs so that truckers can get a grant and a loan at the same time, minimizing paperwork and significantly reducing the monthly payments for a new truck loan.

Heavy-duty big rigs are the largest remaining source of unregulated diesel emissions, responsible for 32 percent of the smog-forming emissions and nearly 40 percent of the cancer-causing emissions from diesel mobile sources (other diesel emitters include trains, off-road vehicles and marine engines). The rules are expected to impact more than 400,000 trucks registered in the state, as well as about 500,000 out-of-state vehicles that do business in California, and over a half million trailers.

To reduce diesel emissions and improve air quality and public health, the ARB adopted a Diesel Risk Reduction Plan in 2000 and has already passed regulations addressing urban buses, garbage trucks, school bus and truck idling, stationary engines, transport refrigeration units, cargo handling equipment at ports and rail yards, off-road vehicles, port trucks and other sources.

<http://www.arb.ca.gov/newsrel/nr121208.htm>



Release 08-103
FOR IMMEDIATE RELEASE
December 12, 2008

Karen Caesar
(626) 575-6728
(626) 818-0145 cell
www.arb.ca.gov

ARB adopts landmark rules to clean up pollution from "big rigs"
Regulations expected to prevent 9,400 premature deaths, improve air quality and reduce greenhouse gases; more than \$1 billion in funding aid available for business owners

SACRAMENTO - The Air Resources Board today adopted two critical regulations directly aimed at cleaning up harmful emissions from the estimated one million heavy-duty diesel trucks that operate in California. Beginning January 1, 2011, the Statewide Truck and Bus rule will require truck owners to install diesel exhaust filters on their rigs, with nearly all vehicles upgraded by 2014. Owners must also replace engines older than the 2010 model year according to a staggered implementation schedule that extends from 2012 to 2022.

Also adopted today, the Heavy Duty Vehicle Greenhouse Gas Emission Reduction measure requires long-haul truckers to install fuel efficient tires and aerodynamic devices on their trailers that lower greenhouse gas emissions and improve fuel economy.

"Today's vote marks a milestone in the history of California's air quality," said ARB Chairman Mary Nichols. "The Board's actions will not only help protect the health of 38 million Californians, they will also ensure that California continues strongly on its path to achieving clean air. And in light of today's extremely challenging financial climate, I am also pleased to say that the Governor, legislature and voters have made available more than one billion dollars in grants and loan programs to help truckers and business owners comply with this vital public health measure."

Heavy-duty big rigs are the largest remaining source of unregulated diesel emissions, responsible for 32 percent of the smog-forming emissions and nearly 40 percent of the cancer-causing emissions from diesel mobile sources (other diesel emitters include trains, off-road vehicles and marine engines). The greenhouse gas reduction measure applies to more than 500,000 trailers, while the diesel regulation applies to about 400,000 heavy duty vehicles that are registered in the state, and about 500,000 out-of-state vehicles that do business in California. However, because many heavy duty vehicles are replaced or retired due to normal business practices on a faster schedule than what the new regulation will require, the number of

vehicles expected to be retrofitted by 2014 under the rule is about 230,000, while up to 350,000 vehicles would be replaced earlier than normal over the next 15 years.

To help truck owners upgrade their vehicles, the state is offering more than a billion dollars in funding opportunities. Options include Carl Moyer grants, which are designated for early or surplus compliance with diesel regulations; Proposition 1B funds, for air quality improvements related to goods movement; and AB 118, which establishes a low-cost truck loan program to help pay for early compliance with the truck rule. In addition, ARB is evaluating ways to integrate these programs so that truckers can get a grant and a loan at the same time, minimizing paperwork and significantly reducing the monthly payments for a new truck loan.

To provide flexibility, the diesel regulation is structured so that owners can choose from among three compliance options to meet regulation requirements. There are exceptions to the regulation, including low-use vehicles, emergency and military vehicles, and personal use motor homes. School buses would be subject only to requirements for reducing diesel particulate matter and not for engine replacement.

California has the nation's most polluted air. Because of new engine standards established in 2001, diesel engines operating in California have been getting cleaner, but they are not getting clean fast enough to meet air quality goals. With the new State Bus and Truck rule in place, by 2014, diesel emissions will be 68 percent lower than they would be without the regulation, while emissions of the smog-forming pollutant NO_x (oxides of nitrogen) will be 25 percent lower.

Diesel emissions are associated with cancer and exacerbate cardiovascular and respiratory ailments, as do smog-forming emissions. The truck regulation is expected to save 9,400 lives between 2011 and 2025, and greatly reduce health care costs. These benefits have an estimated value of \$48 billion to \$69 billion. The cost of installing the trailer greenhouse-gas-reducing technologies will be quickly recouped through lower fuel use.

ARB staff held dozens of workshops and met with hundreds of business owners and other stakeholders over the last 20 months. Without the diesel regulation, California will not be able to meet U.S. EPA-mandated air quality standards and deadlines, and could subsequently lose billions of dollars in federal highway funding.

To reduce diesel emissions and improve air quality and public health, the ARB adopted a Diesel Risk Reduction Plan in 2000 and has already passed regulations addressing urban buses, garbage trucks, school bus and truck idling, stationary engines, transport refrigeration units, cargo handling equipment at ports and rail yards, off-road vehicles, port trucks and other sources.

<http://www.latimes.com/news/local/la-me-diesel13-2008dec13.0,872554.story>

Los Angeles Times December 13, 2008

State orders diesel trucks to clean up

Air Resources Board votes for truckers to retrofit or replace older rigs to cut down on pollution.

By Margot Roosevelt

December 13, 2008

SACRAMENTO - California regulators cracked down on diesel air pollution Friday, adopting the nation's toughest rules on heavy-duty trucks, despite pleas from truckers who said they would be bankrupted in a sinking economy.

The state Air Resources Board voted unanimously for the measure that requires truckers to retrofit or replace older rigs, starting in 2011. The board declared that the health benefits far outweighed the financial pain in a state that has the dirtiest air in the nation. Diesel trucks are responsible for a third of the smog in California.

"This is an industry that has an enormous impact on people's lives," Chairman Mary Nichols said. "This regulation will save more than 9,000 lives and reduce the toxic emissions that cause cancer and birth defects."

In two days of hearings, high-school students from East Oakland, nurses and doctors from the San Joaquin Valley, community activists from Pacoima and Commerce pleaded with the board to control the soot-belching rigs that travel through their neighborhoods.

Ana Sanchez, a single mother from Salinas, held up a photo of her asthmatic daughter, Julianna, using an inhaler. "This ignoring pollution has gone on long enough," she told the board. "Yes, a trucker may lose a job . . . but what about my daughter losing her life?"

The testimony of truckers was wrenching, too, with many small owner-operators -- including dump truck drivers from San Fernando and loggers from Eureka -- telling the board they would lose their livelihoods. Their life savings are tied up in trucks that are unmarketable because they will be illegal within a few years, they said.

"At the stroke of your pen, you will have trashed my assets and turned them into toxic waste," said Greg Pile, a San Diego beekeeper who delivers hives with five trucks that are more than 18 years old.

The federal government is forcing new diesel trucks to carry far cleaner engines by 2010. But

that does not affect older models. Big rigs can last up to 25 years, so it would take years for the current fleet to turn over. State officials say existing trucks must be phased out in order to meet federal mandates to clean California's air -- particularly in the heavily polluted South Coast Basin and San Joaquin Valley.

The new rules, would cover any trucks weighing more than 14,000 pounds that travel through California, no matter where they are registered. Owners would be required to retrofit about 230,000 heavy-duty rigs with diesel exhaust traps and replace about 350,000 older, dirty engines by 2023.

No other state requires existing trucks to be retrofitted or retired, but that could soon change. "Other states are going to pick up on what California has done," Nichols predicted. "They usually look to California for leadership."

The regulation, which is the most expensive measure adopted by the air board, is expected to cost truckers \$5.5 billion.

The state will offer about \$1 billion in subsidies, but many operators complained they are not eligible for the aid because they live in rural areas, their mileage is low or they don't meet other requirements.

"We fall through the cracks," said Angel Raposa, who owns five dump trucks in the Bay Area with her husband. With the economy in recession, they are operating three trucks part time. "Now our equipment has lost so much value, in anticipation of this rule, that we are unable to sell. We had always counted on the fact that selling our equipment could carry us through hard times."

Diesel exhaust can cause lung and heart disease, cancer and premature deaths, according to representatives of the American Academy of Pediatrics, the American Lung Assn. and the California Medical Assn., which endorsed the rules. Board economists said the measure would save Californians up to \$68 billion in healthcare costs in the first 15 years.

"I get emotional," Christine Cordera, an activist with the Ditching Dirty Diesel Collaborative in Oakland, told the board. "We have seen people sick for decades. We have lost people we love. At what point do we say our children's lives are more important than a company's bottom line?"

Air board member Dr. John Telles noted that the rule could also have negative health effects for truckers. "Having taken care of cardiovascular patients, I can say . . . when a person loses his job, his health falls apart," Telles said. "I don't think the state of California wants to put people out of work."

In a spirited discussion, Nichols and other board members responded that the economy may be on the upswing by 2011, when the regulations kicks in. However, in adopting the final rule, the board unanimously added a provision to extend the compliance deadline for fleets of three trucks or fewer by one year. And they called for the staff to report next year on how truckers are

faring economically. They said they will seek to expand subsidies.

The board eased the rules for agricultural trucks with low mileage and for school buses, after local officials said they did not have the funds to replace buses.

It also passed a measure requiring long-haul truckers to install fuel-efficient tires and aerodynamic devices on their trailers to improve fuel economy and lower carbon dioxide emissions, which contribute to climate change. Heavy duty trucks are responsible for 7% of the state's global warming emissions. Despite the economic effects on a major industry, the diesel rule debate remained remarkably free of political interference. Gov. Arnold Schwarzenegger, who has been vocal on other environmental issues, such as renewable energy and climate change, issued no statements.

No legislators testified against the measure. Owing perhaps to the widespread public awareness of diesel pollution, 14 state senators and 24 Assembly members wrote the board, saying that "an effective heavy-duty diesel truck rule is essential to clean up California's air."

<http://www.sfgate.com/cgi-bin/article.cgi?file=/c/a/2008/12/13/MN8U14N2IV.DTL>

The San Francisco Chronicle December 13, 2008

Air board adopts strict rules on diesel exhaust

Wyatt Buchanan, Chronicle Staff Writer

SATURDAY, DECEMBER 13, 2008

(12-12) 19:29 PST SACRAMENTO -- One million diesel-exhaust-spewing big rigs on California's roads face the nation's strictest emissions restrictions under rules adopted Friday by the state air board, a move that officials say is needed to save thousands of lives but that some truck drivers fear will put them out of business.

The regulations, approved one day after the California Air Resources Board's landmark vote to curb greenhouse gases, require all trucks and buses, whether or not they are registered in the state, to retrofit or replace their rigs starting in 2010.

Air board officials estimate the changes will cost the trucking industry \$5.5 billion, causing some truckers to plead for financial assistance. They said they will offer truck owners \$1 billion in help.

After hearing public comment for two days, the board voted unanimously in favor of the rule. Board Chair Mary Nichols said the decision was necessary because the trucking industry "has an enormous impact on the lives and health of the people of the state."

Air board officials estimate that the rule will save the lives of 9,400 people between 2011 and 2025. A related study by UC Berkeley and Harvard researchers concluded that truck drivers and dockworkers who breathe diesel soot on the job have higher rates of lung cancer and death than other workers.

During hearings Thursday and Friday, truck drivers and others concerned about their bottom line predicted dire economic consequences from the rules, while public-health advocates and air officials from around the state focused on people who suffer from asthma and other health risks associated with the pollution.

"This regulation is not something that you could do or should do - it's something you must do," said Bonnie Holmes-Gen, senior policy director for the American Lung Association of California.

But Doug Britton, who owns a Fresno County trucking company whose 10 trucks are 10 to 20 years old, said he is worried about whether he will be able to stay in business.

The cost of installing filters, which run about \$12,000 per truck, and replacing old engines would "cause my debt to explode to 2 1/2 times the amount I've carried the last 20 years," Britton said. "That scares the heck out of me."

About 400,000 trucks are registered in the state, and about 500,000 from other states do business in California, according to the air board. The regulation applies to trucks that weigh more than 14,000 pounds, or those that are larger than a Ford F350 or GM 3500.

Truck owners would be required to install filters on their exhaust, and most would have to do so by 2014. Truckers also would have to replace their engines between 2012 and 2022 or buy a new truck with an engine made with 2010 specifications. If a new or used replacement is not available, truckers will not have to buy a replacement.

Truckers who do not adhere to the rules could face fines of up to \$1,000 per day per violation.

Air board officials said their top priority is public health, adding that failure to meet clean air standards in the San Joaquin Valley and Southern California would put \$2 billion in federal highway money at risk.

But the board agreed to let owners of small fleets, those with three or fewer trucks, wait until 2011 to comply with the new rules. The air agency will carry out an intensive campaign in the coming year to inform those owners of the new rules. The board also decided to let fleet owners delay retrofitting one vehicle for each one that is taken off the road.

Julie Sauls, spokeswoman for California Trucking Association, said the group will take a close look at the new rules and talk to its members.

The trucking industry offered an alternative plan, with different timelines, to ease some of the burden on truck drivers who could be saddled with vehicles they cannot legally drive or sell. But the board said the proposal did not meet the timeline for the federal requirements.

Air board members also voted to require people who drive their trucks long-distance to install more efficient tires and to outfit their rigs with aerodynamic features.

Board member Dr. John Balmes said after the vote that while the change might cost the industry more than \$5 billion, the savings in public health costs are estimated at as much as \$50 billion.

"It's a tough rule in a tough time, but there will be societal savings," he said.

E-mail Wyatt Buchanan at wbuchanan@sfchronicle.com.

<http://www.signonsandiego.com/news/2008/dec/13/1n13trucks82539-air-board-oks-nations-toughest-die/>

San Diego Union-Tribune December 13, 2008

Air board OKs nation's toughest diesel rules

Truckers, schools fear economic toll

By Michael Gardner

SATURDAY, DECEMBER 13, 2008 AT 6 A.M.

SACRAMENTO – Angelo Logan says he has watched too many of his Los Angeles-area neighbors suffer from respiratory problems he blames on breathing truck-diesel soot.

“They talk about the value of jobs,” Logan said as the [California](#) Air Resources Board yesterday heard hours of testimony on proposed regulations to curb diesel emissions. “What about the value of life?”

In the end, the regulators came down on Logan's side, unanimously adopting the nation's toughest standards to gradually clear the skies of soot, despite fears that it will drive many truckers out of business.

It was another clean-air milestone for California. On Thursday, the air board passed the nation's most comprehensive plan to reduce greenhouse gas emissions linked to [global warming](#).

“It's a tough rule in tough economic times. But there will be tremendous societal savings with regard to public health benefits,” said board member John Balms, a professor of medicine at the [University of California San Francisco](#).

Despite the unanimous vote, regulators struggled with the new truck rules, particularly because compliance will cost the industry an estimated \$5.5 billion by 2023.

Board member Ron Roberts, a [San Diego](#) County supervisor, could have been the lone “no” vote, but he had to leave early.

“It's all being presented as somehow we can roll right through this,” Roberts said during the meeting, addressing the financial effects. “I do want a rule, but I don't think we're there.”

Regulators did approve concessions, including awarding a credit for every truck taken off the road or retrofitted with a soot-trapping device. The credit can be used to receive a one-year delay in bringing another truck into compliance.

Board members also extended the compliance deadline for small-fleet owners by a year, to 2014, and pledged to revisit the regulations next year and perhaps make modifications depending on the economy.

Trucking industry representatives were not appeased.

“It is frustrating and saddening that at a time when we are bailing out Wall Street, those of us on Main Street are being hurt by overly burdensome government regulations like this one,” said Robert Ramorino, president of the California Trucking Association.

The air board may not have the final say.

Republican lawmakers are demanding a delay in the rules as part of their economic stimulus program, which they want to see passed in exchange for votes to break the state budget deadlock to address a massive deficit. Democrats and Republican Gov. Arnold Schwarzenegger have resisted major environmental concessions, however.

Earlier this week, Schwarzenegger signaled that he opposes legislative intervention in overturning major environmental initiatives. “We talk about all the different things that the Republicans are proposing,” he said. “The only thing we don't have in there are some of the environmental issues they want to address.”

Air board Chairwoman Mary Nichols said she came under no pressure from the Legislature.

Regulators adopted the new standards after more than 13 hours of passionate testimony from about 250 drivers, parents, doctors, truckers, loggers and executives over two days.

Dozens of truckers warned the board of the potential fallout, from shuttered delivery companies to price increases for shipped goods such as produce, clothes and electronics. Hard economic times make it even more difficult to afford \$15,000 soot filters or new \$100,000 rigs, they said. Credit is just too hard to come by, the truckers said, adding that their strapped customers cannot afford increases that would have to be passed along.

“We all get hammered,” said Jim Ganduglia, operations manager of a freight firm in Fresno.

Valley Center beekeeper Greg Pile told the board he might as well scrap his small fleet. “By a stroke of a pen, my assets, my trucks, turn toxic. I can't sell them,” said Pile, of Chaparral Honey Inc.

Clean-air advocates were just as adamant.

“The scientific literature is overflowing with studies documenting harm from diesel emissions to the lungs, the immune system, the heart and cardiovascular system, even the developing brain,” said Dr. John Balbus, chief health scientist for the Environmental Defense Fund.

The regulations, which will apply to nearly 1 million trucks and buses in California, will require operators to gradually replace their older rigs or install anti-pollution devices on new ones starting in 2011.

State regulators have put together a \$1 billion package of grants and loans to help the industry comply over the coming years, Nichols said. Yet that is less than 20 percent of the estimated compliance cost.

The health rewards will be huge, regulators say. Over the next 15 years, they estimate, the new rules will prevent 9,400 premature deaths, result in 150,000 fewer asthma cases, save 950,000 work days lost because of illness and reduce public health costs by as much as \$68 billion.

Regulators are under growing pressure from the U.S. Environmental Protection Agency to meet clean-air standards, particularly in the San Joaquin Valley. Failure could cost California \$2 billion in federal transportation dollars – half of the state's allocation.

Deborah Jordan of the EPA said that without the regulations, the state will not achieve federal standards “and will not provide Californians the clean air they deserve.”

The air board estimates that in 12 years, the regulations would cut particulate matter in the soot emitted by diesel engines by 43 percent and emissions of nitrogen oxides, a primary contributor to smog, by 23 percent.

While much of the focus has been on cargo-carrying trucks, many school buses must comply. School officials vehemently opposed the regulations, saying districts already are struggling to keep transportation programs afloat. The alternative will be more cars on the road, particularly in rural areas, and more children walking to classes along unsafe, busy roads, they said.

The vote marks a milestone 10 years after diesel was declared a toxin by the air board. Regulators already had imposed restrictions on diesel fuel and off-road engines. Only now did they tackle heavy-duty truck engines.

“This was the last one done,” Nichols said, “because it was the hardest.”

Overview

Background: Diesel emissions from trucks are considered an extreme health hazard, exacerbating respiratory illnesses and causing premature deaths.

What's changing: State regulators have moved to curb emissions by requiring truck companies to gradually begin to buy new rigs or outfit existing engines with soot traps.

The future: Regulators say the result will be improved public health, saving up to \$68 billion in medical costs by 2023. Truckers say the regulations will cost \$5.5 billion, forcing many to shut down and increasing the price of goods.

<http://www3.signonsandiego.com/stories/2008/dec/21/lz1ed21top20221-unworthy-trust/>

San Diego Union-Tribune December 21, 2008

Unworthy of trust

Air board ignored warning signs on controversial, costly proposals

By Union-Tribune Editorial

SUNDAY, DECEMBER 21, 2008 AT 12:02 A.M.

For decades, the California Coastal Commission has been run by extremists with an aversion to private property rights. Now, a similar extremism has infected the California Air Resources Board. That is the only conclusion to draw from the air board's recent adoption of sweeping rules forcing a switch to cleaner but costlier types of energy and imposing costly new restrictions on vehicles using diesel fuel. On both measures, there were huge warning signs about the proposals – red flags board members blithely ignored.

The first measure – the “Scoping Plan” to implement a 2006 law meant to reduce the greenhouse gases that contribute to global warming – prompted scathing criticism from prominent economists hired to evaluate its claim that it would yield broad economic gains. Two said the air board's study appeared to have been written to justify the plan, not evaluate it.

The handling of the second measure was even more outrageous. Last month, James E. Enstrom, an epidemiologist with UCLA's Jonsson Comprehensive Cancer Center, began looking into the credentials of those responsible for the diesel study. Enstrom was motivated by dismay over the study's slapdash quality and its omission of crucial evidence. He found that the study's lead author and coordinator, air board scientist Hien Tran, did not have the degree he claimed – a doctorate in statistics from the University of California Davis.

Before the vote on the diesel regulations, Enstrom wrote the air board about his discovery, and told three members face-to-face.

And no one did a thing. Instead of starting from scratch – or at least postponing approval until an internal investigation was completed – the air board adopted sweeping rules based on work by someone who lied about his credentials.

With the air board – as with the Coastal Commission – zealotry comes before honesty, fairness and common sense.

As for Tran, the air board only began an internal investigation into his background after the Union-Tribune's inquiries. For all the board cared, Tran could have been a junior high dropout – so long as his “findings” reinforced its extreme views.

<http://www3.signonsandiego.com/stories/2008/dec/24/lz1ed24top19121-sacramento-stench/>

San Diego Union-Tribune December 24, 2008

U-T Editorial: Sacramento stench

What did state air board boss know and when?

WEDNESDAY, DECEMBER 24, 2008 AT 2 A.M.

On Dec. 12, the state Air Resources Board approved sweeping new rules governing diesel emissions, winning applause from environmentalists around the nation who said that once again California was blazing a path for the world.

Within days, however, a Union-Tribune editorial writer had confirmed allegations that Hien T. Tran – the lead scientist and coordinator of the study used to justify the stringent new diesel regulations – had falsely claimed to have a Ph.D. in statistics from the University of California Davis.

Since then, four things have happened – one good, three bad.

On the positive side, an aide to Gov. Arnold Schwarzenegger immediately said the right thing: “We expect ARB to thoroughly investigate the matter and take the appropriate actions.”

On the negative side, air board spokesman Leo Kay said his agency would not explain what it was doing in the Tran matter because of state privacy laws. We consulted with Terry Francke of Californians Aware, one of the leading experts on the California Public Records Act. Francke said the air board was ignoring a long history of legal precedents requiring disclosure of disciplinary actions and investigative findings involving non-public safety public employees, as well as precedents requiring disclosure of such employees' occupational history and qualifications. Provided with Francke's legal citations, Kay had no further substantive comment.

Further on the negative side, in the comments sections of the online editions of the Union-Tribune and The Sacramento Bee, a seemingly coordinated effort emerged to try to change the subject from Tran's falsehood to the history of UCLA epidemiologist James Enstrom, who first raised the question of Tran's qualifications in a letter to the air board and in meetings with three board members. What does Enstrom's occasionally controversial past have to do with Tran's deception or its implications for the air board's integrity? Nothing.

The third and final dispiriting development: Air board Chairwoman Mary Nichols refuses to answer whether she was aware of the allegations about Tran before the Dec. 12 vote – justifying her refusal with inventive interpretations of state law and the federal Freedom of Information Act.

This reeks. Instead of quickly declaring that Tran's work would be scrutinized by independent outside experts – the standard next step in cases such as this – the air board is attempting to keep its actions secret in defiance of state law. Meanwhile, its allies promote red herrings.

You don't have to be a cynic to wonder if all this is being done because key air board officials knew about the Tran allegations before the Dec. 12 vote but just didn't care. They were too eager to take their victory laps for their landmark new rules.

If this proves true, this is a genuine scandal – not just a possibly minor flap over of a prominent bureaucrat falsifying his resume. Unfortunately, if Nichols and the air board get their way, we may never get to the truth

http://www.cdtoa.org/CARBdocs/CTN_010109.pdf

California Transportation News January 2009

“A Regulatory Fraud or a Polluted Process?”

http://www.heartland.org/policybot/results/24454/California_Ignores_Scientific_Protests_Passes_New_Diesel_Regulations.html

The Heartland Institute January 1, 2009

California Ignores Scientific Protests, Passes New Diesel Regulations

Written By: John Dale Dunn
Publication date: 01/01/2009

Claiming their action will save thousands of Californians' lives and reduce health care expenditures, the California Air Resources Board has imposed new emission regulations on diesel trucks despite objections from an array of experts about the regulatory process and the credibility of the science.

Vigorous protests of the new regulations and the claims of benefits were submitted by Dr. James Enstrom of UCLA and others, amounting to more than 100 pages of written criticisms of the CARB scientific process and the studies that CARB claimed showed thousands of deaths from diesel small particles.

The year-long process of development of the new regulations resulted in some very revealing public commentary, accusations of complicity in the scientific review process, and even misconduct by CARB officials.

In the biggest scandal, opposition scientists found the lead author of the key study by CARB had faked his Ph.D. and lacked expertise in air pollution research. In addition, CARB hired reviewers to review their own papers, naturally resulting in approval of the scientific studies that claimed the death and health effects.

Dr. Henry Miller, a senior fellow at the Hoover Institution of Stanford University, in a May 27, 2008 essay in *The Washington Times*, declared the new regulations, called the "Goods Movement Emission Reduction Plan" (GMERP), an overreach by CARB based on bad science that will drive business out of California.

Miller cited a large and detailed 2005 study by Enstrom, who has a real Ph.D. from Stanford and a Masters in Public Health from his current university, UCLA. Enstrom

found no death effect in the period between 1983 and 2002 from fine particulate matter in the air.

In any fair analysis of science, such a study disproves the claims of CARB of thousands of deaths. Miller pointed out the harm to the California economy created by the new CARB rules will induce additional deaths due to the "income effect." Miller, a physician and public health researcher, relates that it is well-established that premature deaths come to people suffering economic hardship and deprivation.

In a valiant effort to push back on the CARB diesel regulations, Enstrom and others provided commentary and analysis in 2008 that showed the CARB scientific process was poisoned with bias and insider dealing, including a review panel that was clearly not objective and was set up to give CARB what it wanted.

During the effort to urge CARB to reconsider the bad effects for little benefit, the Enstrom group found out the lead author for CARB on the study, Hien Tran, in fact did not have the Ph.D. claimed by CARB in its major study of air pollution and that he had authored no significant studies in air pollution toxicology.

On December 10, 2008, in a last effort to change CARB votes and ask for reconsideration of the new regulations with a more disciplined peer review and scientific process, Enstrom authored a letter to CARB reminding the board of the public comments submitted already by many distinguished scientists.

Enstrom noted CARB had not adequately responded to the many criticisms in the public comments raising process and evidentiary questions and refutations of the CARB claims of thousands of deaths. Submitters included Joel Schwartz from the American Enterprise Institute, Joseph Suchecki of the Engine Manufacturers Association, Dr. Suresh Moolgavkar, a prominent and nationally known epidemiologist, Dr. Fred Lipfert, also a national figure in public health, and Dr. John Dunn (the author of this essay), a 30-plus-year epidemiologist from UCLA.

They all asserted the CARB death projections were the product of an excessive zeal at CARB and unacceptably weak research on current California air pollution health effects. Moreover, the commentators pointed out the GMERP rules would impose

new regulatory and economic burdens on industry and business that would result in hardship for the consuming public and harm the failing and frail California economy.

The public commentary, mostly from scientists and more than 140 pages, was negative, with the expected supportive letters from environmental organizations.

In his December 10 letter, Enstrom pointed out CARB's disregard of public scientific commentary, the biased nature of the CARB consultants, lack of scientific qualifications of CARB lead author Hien Tran, and reasons why CARB should reconstitute its review process and committee members and restudy its scientific reports and projections of deaths.

In another December 2008 letter to CARB board members, Enstrom, Anthony Fucaloro, a 35-year chemist from Claremont McKenna University, Matt Malkan, a 25-year astrophysicist from UCLA, and Robert Phalen, a 35-year air pollution toxicologist from UC Irvine, pointed out their concerns:

General Concerns Regarding Air Pollution Health Effects and Regulations

- 1) Pollution levels are much lower today than in previous decades and current health risks are small.
- 2) Small epidemiologic associations are often spurious, rather than cause-and-effect relationships.
- 3) Regulations designed to solve one problem may have consequences that do more harm than good.
- 4) Scientists who are not popular activists are often marginalized and their important research is ignored.
- 5) Conflict of interest regarding power and funding exists between regulators and conforming scientists.
- 6) New regulations must be based on a fair evaluation of all available evidence from diverse sources.

Specific Concerns Regarding October 24, 2008 CARB Staff Report on PM 2.5 and Premature Deaths

- 1) Authors have no relevant peer-reviewed publications and lead author has misrepresented his "Ph.D."
- 2) Report and public comments were never shown to outside reviewers as stated in Executive Summary.
- 3) Five independent sources indicate no current relationship between PM2.5 and deaths in California.
- 4) California has fourth lowest total age-adjusted death rate among US states and few "premature deaths."
- 5) Diesel toxicity and fine particulate air pollution in California are currently at record low levels.
- 6) Before approving new diesel regulations, CARB should fully evaluate PM2.5 and deaths in California.

Conclusion

Important epidemiologic and toxicological evidence does not support adverse health effects of diesel claimed by CARB and new diesel regulations should be postponed until the above issues are fully and fairly evaluated.

The CARB board passed the rules unanimously. So much for the democratic process and scientific debate that results in good public policy.

John Dale Dunn M.D., J.D. is an emergency physician and policy advisor for The Heartland Institute of Chicago and the American Council on Science and Health of New York City.

<http://www.bakersfield.com/news/columnist/henry/x361189600/Lois-Henry-Hype-clouds-our-real-air-pollution-picture>

The Bakersfield Californian January, 17, 2009

Lois Henry: Hype clouds our real air pollution picture

BY LOIS HENRY, Californian staff writer

lhenny@bakersfield.com | Saturday, Jan 17 2009 08:07 PM

I have no idea how to say this, so I'm just going to say it:

Claims about air pollution's devastating effects on public health are, um, hooley. Or at least largely hooley.

You have no idea how it pains me to say that having many times, and publicly so, taken officials and politicians to task for not doing more to clean our "filthy air."

Ewww, this crow tastes nothing like chicken!

Please don't take this to mean we shouldn't continue to try and make our air as clean as possible. We should.

But it should be done using a reasoned approach based on solid scientific evidence without the wild claims and near hysteria some environmental groups have beaten us over the heads with to keep us in fear of our next breath without more and more and MORE regulation.

Here's what I've concluded after reading a number of studies, talking to scientists and physicians and looking at some common sense trend data:

A) Our air is cleaner than it's been in 30 years. And our air pollution isn't nearly as bad as we've been led to believe.

B) The pollution we do have is not killing us.

Just recently (November) we were told by Cal State Fullerton researchers that bad air costs the San Joaquin Valley \$6 billion a year, most of that due to the "premature" deaths of more than 800 people allegedly cut down by crummy air.

There was some discussion in news stories, including this paper, about how researchers arrived at that figure. Turns out it's not an actual cost, as if those 800 people were pumping billions of dollars into the economy when they were suddenly felled by a whiff of ozone. It's a statistical value the researchers placed on human life, and, in my mind, it's misleading at best.

Other than that, the media reported that more than 800 people actually kicked the bucket last year because of pollution. (Editors in this newsroom were skeptical about that assertion and our story did quote a researcher who said the number of deaths was inflated, but we could have dug deeper.)

Money aside, I think the real question on whether air pollution is killing people in droves ought to be, really?

I'm convinced the answer is a resounding NOT REALLY.

A 2003 study by James Enstrom, a 35-year lifestyle epidemiologist at University of California, Los Angeles, found California did not have a death rate out of whack with our population. That means we don't have a lot of premature deaths at all, much less from air pollution.

In fact, California has the fourth lowest total age-adjusted death rate in the country, according to Enstrom.

"The irony is, people are living longer in this state than ever before," he said.

A Johns-Hopkins study using Medicare data released last month, backs up Enstrom's death rate findings specifically for exposure to PM2.5 (very small particulate matter, such as soot, which is what's keeping us from being able to use our fireplaces, by the by), at least in the west from Washington state to Southern California.

"For the 32 western U.S. locations, there is little evidence of an association between chronic PM2.5 and mortality," the study states.

Enstrom is one of a handful of scientists and researchers fed up with groups using small inconclusive studies to draw extreme conclusions that are then used to create stringent regulations.

"The claims have just gotten out of sight," Enstrom told me. "Unfortunately, this has become an agenda for a lot of organizations that used to be more interested in research on diseases and now want to be advocates for ways to deal with them and they aren't focused on real research anymore."

I know the enviros out there are madly Googling Enstrom for any hint of association with "evil industry." So to save you some time, he did one study funded by the Electric Power Research Institute and beyond that has no ties to corporations that might benefit from him saying we've been bamboozled on air pollution.

I also spoke with Joel Schwartz, a Sacramento-based environmental consultant who used to work for the conservatively bent Reason Foundation but who started out working for an environmental group in Los Angeles and didn't like the kind of "science" he saw being perpetrated on the public.

Most of the studies being used by regulators are epidemiological or meta-analysis, Schwartz said.

The first looks at groups of people and ties them together by common factors, such as people who had heart attacks and whether they were exposed to high levels of PM2.5 in a certain time frame before the attack.

The second type of study, meta-analysis, aggregates the results of a bunch of other previous studies that looked at similar hypotheses. I'd never heard of such a thing and, frankly, it kinda sounds like cheating to me.

“Activists and regulators are in the business of finding dragons to slay,” Schwartz said. “The air is so much cleaner now but they keep tightening the standards and finding ways to make false claims that lower and lower pollution levels are more and more harmful.

“They stay in business as long as the public has the perception that there’s a problem to solve.”

Take asthma, he said.

We’ve been told for years that pollution and asthma go hand in hand. If that’s true how can it also be true that asthma rates continue to climb — even on the central coast, which has virtually no air quality problems — while our pollution continues to drop?

I had no answer for that, other than, “DOH!”

Some months ago, I was hot after a story tip about elderly people who’d lived here all their lives and never smoked reportedly coming up with terrible lung diseases, of course, because of our air.

I spoke with Dr. Augustine Munoz, a pulmonary specialist at Kern Medical Center, and was deflated when he told me, essentially, nah, ain’t happening. Air pollution, he said, doesn’t hurt healthy lungs.

“The most rapidly growing lung problem we have in Kern County is sleep apnea due to obesity,” he said.

His answers didn’t fit my theory. I tucked the interview away and only revisited it when I started wondering about those 800 alleged air pollution deaths. Go figure!

When I asked San Joaquin Air Pollution Control District Executive Director Seyed Sadredin about what I’d learned, he wasn’t surprised.

He said the Federal Environmental Protection Agency sets the standards for how much of each pollutant can be in the air at a healthy concentration based on “what we have to assume is proper scientific study.”

Even as we've reduced pollution in the valley by 80 percent from industrial sources and 60 percent overall since 1980 (despite a massive population increase) the feds have continued to ratchet down our pollution standards, claiming new science shows even smaller concentrations are unhealthful, particularly for sensitive groups such as the elderly, children and people with respiratory problems.

Even with all that, it's not enough for some environmental groups.

Earth Justice recently sued because the feds found the valley in compliance on the old standard for PM10 (airborne particles, like PM2.5, only bigger) as we hadn't exceeded that old standard in five years.

There's a new standard being adopted, but Earth Justice sued over the old one.

Clearly, this is not about Earth Justice fighting for our health. If the valley is found in "attainment" it takes away their legal hammer to demand even greater regulation based on what appears to be dubious science, and collect legal fees, of course.

The real danger is that people won't put up with being lied to, at least not for long, and a serious backlash could undo the decades of good work that have given us cleaner air.

"If you don't objectively and honestly portray the problem, you do lose credibility," Sadredin acknowledged.

Ya think?

<http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2009/03/08/ED2R16AAFQ.DTL>

The San Francisco Chronicle March 9, 2009

Construct balanced policies

Michael W. Lewis

MONDAY, MARCH 9, 2009

Rebuilding our roads, schools and other infrastructure projects are at the heart of the \$787 billion federal economic stimulus plan. Why? Because for every \$1 billion the federal government commits to infrastructure helps to support some 35,000 jobs.

That same job-creating equation holds true here in California and is the reason that the governor and lawmakers are focusing on the state's infrastructure needs to help jump-start our economy. In fact, California has literally built its way out of previous recessions and it looks like it will follow that path to economic recovery this time, too.

But over the course of the past 18 months the construction industry has been one of the hardest hit by the collapse of the housing and credit markets, the economic decline and rising unemployment. At the same time, lawmakers and regulators have levied several costly regulations on our industry including the portable equipment rule, off-road construction equipment rule and on-road truck rule. Through each public rulemaking process we have consistently stated our support for these clean air regulations and have offered our input to make the regulations work better for our industry to achieve the highest level of compliance.

The economic environment is indisputably different now than it was when the off-road diesel equipment rule was initially drafted in 2006. Today, the facts paint a pretty grim picture: construction activity is down 40 percent from July 2006; operating engineers' hours, the workers on the jobs, are down 38 percent; construction diesel fuel consumption is down 41 percent; construction revenues are down 28 percent; Construction employment is down 20 percent and dropping fast.

But there is a silver lining to the economic downturn - cleaner air. California has already achieved a 40 percent reduction in emissions from construction activity over the last two years. That's almost half way to the goal set by the California Air Resources Board's (CARB) off-road diesel emission regulation that called for an 85 percent reduction in emissions by 2020.

To ensure that the construction industry survives today's economic hard times, this year's state budget included a provision that awards credit to those contractors who have taken early action to cull their fleets and rid them of older, more polluting equipment. Regardless of whether equipment was sold in preparation of the CARB rule going into effect in 2010 or solely as a business decision to keep a company's doors open, these early emission reductions clearly put California's air quality goals ahead of schedule.

Contrary to critics who have erroneously reported this provision would delay the start of the off-road diesel regulation, a read of the actual legislation shows that all original deadlines and goals remain in place. There are no rollbacks or weakening of any environmental regulations. For those contractors who have not taken action, they must prepare to meet the deadlines in the original regulation. All we received was a receipt for the massive down payment many contractors have already made toward cleaning our air through their early emission reduction actions.

By providing some credit for these early reductions, the industry can better weather the current economic storm and help get California's economy moving. Without some relief, the industry would be required to spend \$1 billion this year alone - money it does not have and does not have the ability to borrow - to buy equipment to comply with the regulation over the next 13 months. Unnecessary burdens to achieve an air emission goal we have already met.

Gov. Arnold Schwarzenegger has consistently called for a balance between the environmental and economic needs of our state. By providing greater flexibility to contractors, who have already reduced their fleet emissions but are struggling to stay in business, to comply with the regulations, the governor and our legislative leaders are striking the right balance and helping the state's economy by keeping our workers on the job and rebuilding California's infrastructure in the process.

Michael W. Lewis is the senior vice president of the Construction Industry Air Quality Coalition.

This article appeared on page **A - 13** of the San Francisco Chronicle

<http://www3.signonsandiego.com/stories/2009/mar/14/lz1ed14top213329-air-boards-shame/>

San Diego Union-Tribune March 14, 2009

Air board's shame

It won't review work of discredited scientist

SATURDAY, MARCH 14, 2009 AT 2 A.M.

For years, critics joked that the White House of George W. Bush was encased in a massive bubble that kept out all discomfitting information. Now that Bush has exited, this bubble has found a new home at 1001 I Street in Sacramento, headquarters of the California Air Resources Board.

No matter what is happening with the economy, no matter how reasonable are the pleas from affected businesses, no matter if even the respected Legislative Analyst's Office raises concerns, nothing will deter the air board from its central mission: implementing two very costly regulatory schemes adopted in December.

One would impose unique costs on California by forcing the use of cleaner but much costlier fuels; another would impose unique cost on California by adopting much stricter rules on diesel emissions.

Now it appears the air board's single-mindedness will lead it to defy convention in dealing with an internal scandal related to the diesel rules. The board admitted this week what this page reported in December: Hien Tran, the lead scientist on the study justifying the rules, did not have a Ph.D. in statistics from the University of California Davis as he claimed.

Board officials said, however, that Tran did provide them a Ph.D. from Thornhill University. But by all appearances, Thornhill is a "distance learning" diploma mill with branches in New York and London.

The board is apparently considering disciplining Tran. However, it has declined to hire independent experts to examine his work on the diesel study, as scientific ethicists recommend. Not only that, it refuses to subject Tran's work to a fresh internal review.

This is not how a reputable body should behave, especially when it maintains that its decisions are built on a bedrock of scientific integrity. Instead, it is the behavior of an agency driven by external influences – namely, Gov. Arnold Schwarzenegger's determination to be remembered as an environmental pioneer.

If that requires the California Air Resources Board to rely on the work of a man touting a degree from a diploma mill, so be it. Many adjectives come to mind. We offer one: shameful.

<http://www.bakersfield.com/news/columnist/henry/x1763640146/Lois-Henry-Dodgy-science-strangles-industry>

The Bakersfield Californian March 14, 2009

Lois Henry: Dodgy science strangles industry

BY LOIS HENRY, Californian staff writer

lhenry@bakersfield.com | Saturday, Mar 14 2009 05:58 PM

We are about to cripple California's trucking and construction industries for absolutely no good reason.

If I really believed the California Air Resources Board's draconian new diesel emissions standards would save thousands of lives a year, I might say, sorry guys, you gotta suck it up for the greater good.

But when you scratch the surface of the alleged science used by CARB to justify these rules, there's just no "there" there. Our air is NOT killing us, despite what the "environmental alarmist complex" would have us believe.

And, oh yeah, CARB's lead researcher, Hien T. Tran, who wrote the report on which the diesel rules are based lied about having a Ph.D. in statistics from University of California, Davis, according to a CARB spokesman.

That's right, he made it up to get a CARB management job for which a Ph.D. isn't even required. No Ph.D. requirement seems more than a bit loose to me, but that's another story.

The CARB spokesman said they're standing by that report, as well as their diesel rules, which were to go into effect in 2011 but likely will be delayed two years under a state budget deal as a nod to the crumbling economy.

Some people are calling for the rules to be eased while we get through this econ-aggeden, but I say that's a Band-aid on an axe wound.

The rules need to be scrapped. We need a redo, this time using a group of bonafide scientists who don't have to lie about their credentials.

The object of the new standards, by the way, is to reduce PM2.5 (tiny bits of soot) from diesel emissions, which CARB adamantly believes kills thousands of Californians every year, despite studies to the contrary.

The agency has mandated that all diesel trucks and heavy equipment be retrofitted with devices to reduce PM2.5 emissions by 80 percent by 2020 compared to what they were in 2000.

The report on which the rules were concocted is valid, insists a CARB spokesman, because it underwent “peer review” by other scientists.

Yes, but only the draft version. Not the final one with comments from the public, including a number of scientists who disputed its conclusions and the fact that it discounted studies showing little to no increased death rate in California from PM2.5. (Even a map from one of the studies CARB did value, showed little to no PM2.5 deaths in California, but that was also ignored in the report.)

As for the studies that were used in the report, they were weighted by a group of 12 scientists, nearly half of whom wrote or helped author the very studies being graded. And at least a few of those graders are being paid by CARB for more studies.

When I asked Bart Croes, chief of CARB’s research division, and Linda Smith, chief of CARB’s health and exposure assessment branch, how that’s not a screaming conflict of interest, they passed the buck and said the scientists were picked by the EPA.

In my business, that’s what we call a “non-denial confirmation.”

Digging further into that report, I wondered why it was OK to take results from one air study that found increased death rates from PM2.5 in Los Angeles, mix them with results from studies elsewhere in the U.S., then average those results and apply them to the entire state of California.

I don’t have a Ph.D. (real or fake), but that seems pretty slapdash to me.

Smith told me averaging results is perfectly acceptable because of the volume of studies from all over the world that show PM2.5 is dangerous to health and “PM is PM” — just as hazardous one place as another.

Not quite, according to Robert F. Phalen, Ph.D. (a REAL one!), with the Air Pollution Health Effects Laboratory at UC Irvine and author of the book “The Particulate Air Pollution Controversy: A Case Study and Lessons Learned.”

CARB simply measures how many micrograms of PM are in a cubic meter of air, he writes, not by size or even chemical composition.

“The use of this crude mass indicator is not only scientifically shaky, but it can also be hazardous to public health,” Phalen writes.

For example, filters that lower particles in emissions by breaking down them into smaller bits could actually increase adverse health effects, Phalen says. And without knowing the chemical makeup of the particles that are actually causing health problems, you could be eliminating harmless material while ignoring real culprits.

“The available science is not sufficient to define the key indicators that determine the health effects of PM,” he concludes.

Even if you believed PM2.5 was knocking off your neighbors in droves, CARB's own estimates show we'll be very close to the 2023 emissions reduction goal without any extra regulation at all as old diesel equipment is retired. In fact, we'll be within four or five tons per day of the goal without any added regulation at all.

I mentioned that to CARB's Smith and she sharply reminded me that that four tons could represent five to 10 deaths per year, depending on where you looked in Los Angeles.

Which brings me back to the "science" CARB used to come up with its diesel rules.

They relied on a number of epidemiological studies, large sets of observational data (not experiments) queried by scientists to tease out patterns.

The problem with those kinds of studies, according to Stanley Young, Asst. Director for Bioinformatics at the National Institute of Statistical Sciences in North Carolina and who has a real Ph.D. in statistics and genetics, is they can't control for every factor and often end up with biased conclusions.

"Say you're looking at a situation where the temperature goes up, ozone goes up, PM2.5 goes up and humidity goes up. Which of those factors, if any, is killing people?" Young said. "It's a matter of political judgment if you put your finger on ozone."

When other scientists try to replicate results from observational studies, the conclusions don't hold up 80 to 90 percent of the time.

"If you do exactly what the original researchers did, yes, you get the same results," Young said. "When you look at the way they did their analysis, that's where things get dodgy.

"There is a lot of freedom to move the answer around."

It was Young who blew the whistle on Tran for not having a Ph.D. after he read Tran's report. He couldn't believe how amateurish and poorly done it was.

"Frankly, I was shocked," he said. "I asked if they had looked at the raw data from key papers and done their own analysis. They did not have the data and the answer was no.

"It's a crazy situation. And I've just been looking this from the outside."

The view isn't much better from the inside.

Opinions expressed in this column are those of Lois Henry, not The Bakersfield Californian. Her column appears Wednesdays and Sundays. Comment at people.bakersfield.com/home/Blog/noholdsbarred, call her at 395-7373 or e-mail lhenry@bakersfield.com

<http://static.tbc.zope.net/newsroom/pdfs/aircreds.pdf>
http://www.cdtoa.org/CARBdocs/Tran_040909.pdf

California Air Resources Board April 9, 2009

**"Notice of Adverse Action" Against Hien T. Tran Regarding
Misrepresentation of Ph.D. Degree**

<http://www3.signonsandiego.com/stories/2009/apr/25/lz1ed25top192452-air-board-knew/>

San Diego Union-Tribune April 25, 2009

The air board knew

Diesel rules OK'd despite scientist's deception

SATURDAY, APRIL 25, 2009 AT 2 A.M.

According to a document provided this week by the California Air Resources Board, on Dec. 10, 2008, air board scientist Hien T. Tran admitted to Bart Croes, head of the air board's research department, that he had lied about having a Ph.D. in statistics from the University of California Davis. Tran was no minor player in the air board hierarchy. He was the lead scientist and coordinator of an ambitious, far-reaching study on diesel emissions that air board leaders thought made a powerful case for sweeping new rules governing the heavy-duty trucks responsible for most such emissions.

At this point, the air board's responsibilities were plain: It should have immediately suspended Tran and commissioned an independent outside evaluation of Tran's work. And it should have put off action on proposed regulations based on Tran's research.

Instead, on Dec. 12, the board voted unanimously for the rules. Reporters covering the high-profile hearing at which this action was taken were not told that the air board knew the lead scientist on the study justifying the regulations had lied about his academic credentials.

This did not come to light until this week, when the air board released to the Union-Tribune its 12-page "Notice of Adverse Action" detailing Tran's demotion and 60-day unpaid suspension and the findings of fact used to justify the punishment.

The air board's treatment of Tran is astounding in its leniency. But by far the bigger story here is the confirmation that the air board adopted the diesel rules even after a giant shadow had been cast over the legitimacy of the research on which the rules were based.

This is shameful, irresponsible and dishonest. Compounding this offense: The air board has refused to order an independent review of Tran's work. How is this possible?

Tran is no longer the sole villain in this scandal. He is now only one of many.

<http://mountaindemocrat.newspaperarchive.com/>
<http://www.drivecleanca.org/news/126.html>

Mountain Democrat May 21, 2009

Posted on Driving Toward a Cleaner California November 24, 2009

The balancing act: Looking at the tip of the iceberg at CARB

Mountain Democrat columnist, Larry Weitzman

May 21st, 2009

On April 9 Hien Thanh Tran accepted a voluntary demotion from his position as Air Resources Supervisor 1 and manager of the Health and Ecosystems Assessment Section, a position that paid over \$100,000 annually to an Air Pollution Specialist at a salary of approximately \$30,000 less. In addition Tran was suspended by the California Air Resources Board for a period of 60 days, a significant punishment, but for what?

Tran knowingly committed academic fraud in his position in his application for the ARS1 some two years ago when he claimed in his application that he received a PhD in Statistics from UC Davis. While Tran did receive a Master's degree in statistics from Davis and in 1997 was a candidate for a PhD, he never finished the work, including his dissertation.

Tran, at the time of this academic fraud discovery, was the project coordinator and lead author of a report entitled "Methodology for Estimating Premature Deaths Associated with Long-term Exposure to Fine Airborne Particulate Matter in California." This report was the main support document of a draconian regulation proposed by the CARB that would cost California diesel users billions of dollars, a cost that eventually the consumer would pay for in higher food, construction and transportation costs. These costs would be incurred in the retrofitting of almost all diesel engines for on- or off-road, even relatively new ones, with new pollution controls for the sole purpose of limiting particulate matter as small as 2.5 microns (PM2.5). Although there have been some epidemiological studies in the past that claim there is a health risk, those studies were highly speculative and done with poor data. In fact, there is a significant study that says that PM2.5 is not a health risk in California.

Tran's problems started with the completion of the first draft report when Dr. S. Stanley Young, the assistant director of Bioinformatics at the National Institute of Statistical Sciences, came to his attention. Dr. Young fired off a letter to Gov. Schwarzenegger, writing in part, "I note that none of the authors are professional statisticians. Some are trained in epidemiology. It is useful to know that the track record of epidemiologists in the use of statistics to make claims that are reproducible is very poor. Their claims fail to replicate 80-90 percent of the time (Ioannidis, JAMA, 2005). Their recommendations, most likely wrong, are projected to be very costly.

"I suggest that you consider having the report vetted by professional statisticians for data quality, completeness of cited literature, and appropriate use of statistical methods. California is blessed with outstanding statisticians. The analysis of observational environmental data is very complex. Given the importance of the recommendations, it would seem essential that skilled, professional statisticians using the best methods be employed for the analysis and interpretation of this body of data," Young wrote.

In e-mail interviews with Dr. Young, he said he couldn't believe how amateurish and poorly done the report was.

"Frankly, I was shocked," he said "I asked if they had looked at the raw data from key papers and done their own analysis. They did not have the data and the answer was no."

Three months later, Young received a reply to his letter from Linda Adams, secretary for Environmental Protection, saying in part, Tran holds a doctorate degree in statistics from UC Davis and he has 14 years of experience of advanced analysis of complex air quality data sets and methods for quantifying health impacts associated with exposure to air pollution.

Adams further claimed that the CARB report, of which Tran was the chief author and project coordinator, was reviewed by three scientific advisors (some who have long-term contracts with CARB) and six peer reviewers allegedly independently picked by UC Berkeley. However, none of the peer reviewers ever saw any of the 148 pages of public comments, most of which ripped the Tran report to shreds.

The second draft report of the CARB, which included these comments, was never peer reviewed, something that is supposedly required by law.

As a result, the Tran report was rubber-stamped by CARB (at a hearing on Dec. 12, 2008) as pushed by its ring leader, Mary Nichols, and new diesel regulations that will cost Californians tens of billions of dollars and perhaps more went into effect. Nichols and the rest of the CARB board knew of the academic fraud that was committed by Tran who wrote the report that was the basis for passing this heinous regulation. CARB claimed that because of the peer review process the report was valid. Of course, this brings into the question the peer review process in its entirety, since none of the peer reviewers ever saw any of the public comments, including several by leading statisticians and epidemiologists who demonstrated that the report was fraught with errors and its conclusions wrong.

Tran in his attempt to cover up his academic fraud bought a PhD from a diploma mill known as Thornhill University on or about June 28, 2007, or about two weeks before his application to the position as ARS1. Perhaps he could with a straight face say that he did have a doctorate in applied statistics? It just wasn't from UC Davis. But what's in a name?

When Tran was asked to confirm that he had a PhD from Davis he attempted to cover it up by saying that the university data base was not up to date and that it would be straightened out in a couple of days and he (Tran) would make some calls. During the period from his appointment to ARS1 to his admission that he lied and attempted to coverup his lies, Tran freely used his newly bought title on reports and correspondence.

When President Nixon tried to cover up a fraud and lies, he was forced to resign from the office of the President of the United States. Tran kept his job albeit at a lower level.

But Tran is a reflection of symptom of an even bigger, more dangerous problem. CARB is not the scientific organization it alleges to be. It is a body created to produce any "data" the board requests to accomplish the desired goals, regulations and laws that the board wants to impose on the people of California. It doesn't matter if the data are correct or not; its purpose is to support the imposition of laws by bureaucrats who think they are smarter than anyone else. The Tran report was approved by CARB because it said what it wanted it to say even though there was a mountain of comments and data saying that the report was wrong in its conclusion. That is not science. It's fascism. More to come.

<http://newsletters.agc.org/environment/2009/06/23/agc-presses-california-for-relief-from-potentially-nationwide-rule-on-off-road-diesel-emissions/>

Environmental Observer June 23, 2009

AGC Presses California for Relief from Potentially Nationwide Rule on Off-Road Diesel Emissions

June 23, 2009

In close coordination with the AGC of California and its San Diego Chapter, AGC of America continues to press California for relief from its potentially nationwide rule on off-road diesel emissions. Last December, AGC petitioned the California Air Resources Board (CARB) to reopen the rule. AGC also urged the U.S. Environmental Protection Agency (EPA) to deny the state the federal approval that it requires to enforce the rule's core requirements. Since then, AGC has persuaded CARB to make an objective assessment of how greatly the recent economic downturn has already reduced emissions from off-road diesel equipment, and to share background information on the agency's past projections of such emissions with the association.

The state finalized the rule in June of 2008 and sought federal approval of its strict standards for emissions from existing fleets of off-road diesel equipment two months later. If the state's standards meet with federal approval, they will begin to take effect in March of 2010. In addition, most if not all of the other states will be free to adopt identical standards. While the Clean Air Act generally preempts the states' authority to set emission standards, the statute carves out an exception for California and any California standards that meet with federal approval.

The new standards are for nitrogen oxides (precursors to ozone) and particulate matter. These standards are fleetwide averages, and do not apply to individual pieces of equipment, but they steadily decline over a period of eleven years, and in each year in which a construction contractor cannot meet the standards, the firm has to retrofit, repower, replace and/or retire a certain percentage of its horsepower. When it finalized the rule, the state estimated that the cost of compliance would be \$3.4 billion. The state's construction industry originally estimated that the cost would reach \$13 billion, and its latest estimates are even higher.

This spring, the new rule's reporting requirements started to take effect, and CARB has now amassed a wealth of new data on the off-road equipment in the state's construction industry. More importantly, the agency has agreed to share much of that recently collected information with AGC. The agency staff has an October deadline for determining how current emissions compare with the agency's original projections, in the wake of the economic downturn.

AGC met with the agency staff in mid-April and again in mid-June, and it appears that the agency is willing to postpone any decision on AGC's petition to reopen the rule at least until the agency can take a hard look at the latest information. Major issues are far from resolved, and AGC has made a point of retaining all of its legal options, but in recent meetings, the agency staff has been forthcoming and generally cooperative. Stay tuned!

***For more information, contact Mike Kennedy at (703) 837-5335
or kennedym@agc.org.***

<http://www.sdn.com/sandiego/2009-08-11/news/environment/leslie-eastman-californias-eco-bureaucrats-hurt-businesses>

San Diego News Network August 11, 2009

Leslie Eastman: California's eco-bureaucrats hurt businesses

By [Leslie Eastman, SDNN](#)

Tuesday, August 11, 2009

Editor's Note: This is the first in a two-part series about the California Air Resources Board. The second part, about businesses fighting the California Air Resources Board, will be published Wednesday.

I wanted to understand the effects of California's environmental regulations on businesses, so I went to a seminar reviewing the impact on the California Air Resources Board (CARB) rules regarding diesel exhaust. During this meeting, I met a real California hero, and two other brave citizens struggling against a behemoth bureaucracy. I wanted to take this opportunity to share my findings, and remind everyone to join us for the Aug. 28th March in Sacramento: Saving California from Big Government Eco-Regulation.

Leslie Eastman is a founding member of the grassroots organization, Southern California Tax Revolt Coalition.

"None of this is real," said the then CARB Scientific Review Panel (SRP) Chairman John Froines during a 1998 Scientific Review Board Meeting. During the discussions, panel chose to rely on bad data to craft regulations now killing small businesses throughout the state. The comment referred to the data being considered as the basis for developing rules that controlled levels of particulate matter from diesel exhaust. Though the numbers were unreal, the unintended consequences of CARB rule enforcement based on voodoo science is very real.

During that 1998 meeting, a leading epidemiologist (whose study CARB was depending on to be the cornerstone of their eco-regulatory plans), argued with the panel and demanded that they not use the study from the scientist's research group. It seems that the numbers generated from the job-based-exposure study wasn't pertinent to the general public. The data that remained after the keystone study was removed proved nothing about the harmfulness of diesel exhaust. However, that 1998 CARB panel went ahead and initiated a process that has generated a series of regulations forcing companies that rely on diesel equipment throughout the state to comply or close its doors. Despite an array of legal protections designed to guard citizens from rulings based on politically-active "experts" and pleas of public health professionals throughout the nation to halt these draconian regulations because they have no basis in real science, CARB eco-bureaucrats are continuing their business-killing power juggernaut.

A group of scientists and economists has noted that: California's New Diesel Regulation Is All Pain for No Gain. California is the only state with such a diesel emissions reduction program, largely because the U.S. Environmental Protection Agency has never determined that diesel exhaust causes premature deaths. For example, the agency's large, detailed study in 2002 failed to find that diesel exhaust causes premature deaths.

In a nutshell, CARB is demanding trucking companies, construction firms, supply chains, and all other businesses retrofit or replace their diesel equipment based on the unproven premise that the fine particulates (i.e., soot) from the exhaust is harmful to the public. The CARB panel cites a "causation ratio" (a public health term for numerical proof that a chemical is toxic to people; more information on the concept of the Bradford-Hill criteria can be found of approximately 1.014 for diesel soot as the "smoking gun" calling for extreme measures to control this equipment. However, legal standards require the ratio be at least 2.0 before declaring a substance harmful to humans.

Here is a current events analogy that's worth considering: People used to need credit scores of above 690 to get a good loan. However, some bureaucrats and economically illiterate legislators decided that this number should be meaningless — everyone should own a home. Poof! Freddie Mac and Fannie Mae were created, so people with low scores (e.g., 550) could have mortgages backed by tax-payers. The recession, fueled by the housing and banking crises, stem from ignoring the sound numerical data.

CARB is similarly ignoring real numbers and applying voodoo science tactics.

Why are they doing this? It is important to understand that CARB has a \$700 million annual budget and 1,300 employees. That is enough money to fund 7,000 teachers! Or give 700, one-million dollar small businesses loans each year — loans that could be repaid to the citizens once these enterprises proved successful. Government entities backed by so much public monies are not readily inclined to part with it.

It is also important to note that the group is not headed by a scientist (as originally envisioned under the by the 1967 legislation that created the board). Its Chairwoman is Mary Nichols, a lawyer and environmental activist. She also chaired the panel under Gov. Jerry Brown from 1978 to 1983. Nichols has blatantly ignored the requests of the California hero I met — Professor James Enstrom .

Enstrom is a professor at the UCLA Jonsson Comprehensive Cancer Center and President of the Scientific Integrity Institute of Los Angeles. He, quite reasonably, wants CARB to reconsider the rules because of the flawed analysis. Enstrom indicates he has discovered his critical comments of CARB conclusions, panelist qualifications, and regulatory proposals have been removed from records of public meetings.

"This is how bureaucrats handle dissenting scientists," Enstrom explained. "They aren't funded, and their statements are ignored or deleted."

Enstrom likened the experience he and other dissenters have to that of Russian geneticist Nikolai Vavilov, who repeatedly criticized the erroneous inheritance concepts of Soviet-backed Trofim Lysenko, a politically connected bureaucrat that had no formal scientific training. Though his data was valid and the genetic approaches he cited were true, Vavilov was arrested in 1940 and died of malnutrition in a prison in 1943. Because Soviet agriculture was based on fantasy science, crop failures and famines resulted that killed millions of people.

“When Froines said that none of this was real, he meant the data upon which the new regulations were based,” continued Enstrom. However, the rules that California business people live under are real. CARB regulations are wiping out thousands of jobs; meanwhile, scientists are punished for simply stating reality.”

One of the companies impacted by the CARB diesel standards is Priority Moving, an award-winning and highly successful moving and storage firm. I was able to talk to its President, Bryan Bloom. Bloom indicates that the CARB requirements on his 9-truck fleet are jeopardizing the employment of 35 tax-paying citizens.

“CARB standards mandate I either retrofit my truck’s engines, or replace my trucks,” Bloom explained. “If I decide to retrofit the engines, the trucks will still be deemed illegal in a couple of years. And - get this - the technology to retrofit them isn’t even available yet! But getting a new fleet of trucks is prohibitive. Each truck costs \$85,000 and I have nine of them; I will not be able to get a 1 million dollar loan to replace my equipment. Without trucks, I have no business. Without my business, 35 people have no jobs. Without those 35 people, California gets no tax money. This is senseless, especially because the CARB assertion that diesel exhaust particulates are harmful to the public is untrue.”

Bloom notes that there are many discrepancies and ill-conceived schemes within the CARB regulations. For example, CARB rules don’t distinguish between two types of fleets: High-Mileage (like that of Office Depot) and Low Mileage (like his).

“High-mileage trucks get 100,000 miles or more each year and, as a result trucks get replaced frequently; low-mileage ones like, like mine, get maybe 25,000 a year - and it doesn’t make either economic or energy sense to remove vehicles that are in good shape.”

What you can do:

- Join the [March on Sacramento](#): Save California from Big Government Eco-regulation on August 28, 1 p.m. to 5 pm, at the steps of the capitol.
- Support the [Pacific Legal Foundation](#) so they can aggressively and successfully conclude the case on behalf of the plaintiffs.

Leslie Eastman runs an environmental health and safety consulting firm, Eastman Enterprises, and is a founding member of the grassroots organization, Southern California Tax Revolt Coalition.

[http://www.sdn.com/sandiego/2009-08-12/lifestyle/leslie-eastman-carb-rules-dont-address-the-real-problems\)%A0%A0](http://www.sdn.com/sandiego/2009-08-12/lifestyle/leslie-eastman-carb-rules-dont-address-the-real-problems)%A0%A0)

San Diego News Network August 12, 2009

Leslie Eastman: CARB rules don't address the real problems

By Leslie Eastman, SDNN

Wednesday, August 12, 2009

Editor's Note: This is the second in a two-part series about the California Air Resources Board. The first part could be read [here](#).

The California Air Resources Board (CARB) rules don't address the fact that the amount of particulate matter in Southern California air has gone down substantially over the years, especially as diesel engine technology has gotten better. The CARB plans also tout protections from health effects that are untrue - Californians have among the best life-expectancy rates in the nation. And, as Bloom noted, business owners will eventually replace all their equipment with environmentally-enhanced items without CARB involvement, "when does anyone see a 1940's truck on the road - never!"

Leslie Eastman is a founding member of the grassroots organization, Southern California Tax Revolt Coalition.

There were sound reasons for CARB's creation. For example, the Los Angeles basin smog problems through the 1940's and 1950's. Under certain circumstances, visibility was only three blocks and people suffered from smarting eyes, respiratory discomfort, nausea, and vomiting. [Air quality has improved over the past 30 years:](#)

Southern California region can look back on thirty years of dramatically improved air quality and claim for itself one of the most remarkable environmental success stories anywhere in the world. Despite enormous growth - a doubling of population and a near tripling of vehicle miles traveled - the region now meets the federal air quality standards for four of the six pollutants originally regulated by the 1970 Clean Air Act, has eliminated all first, second and third stage air pollution alerts, and has reduced peak ozone levels by more than two-thirds.

However, the entrenched eco-bureaucracy is determined to remain. So, it has targeted diesel exhaust fumes using voodoo science so that it can remain empowered. A chilling aspect to consider is that the California version of Cap-and-Trade, AB 32 strengthens the regulating capabilities of CARB. It's rather like giving an eco-crazed He-Man a shot of Human Growth

Hormone - the results will not be good.

The question is, what can California citizens do to stop eco-harassment of our businesses?

Some businessmen are fighting back. Norman “Skip” Brown, President of Delta Construction Company for the past 44 years, is taking CARB to court. The Pacific Legal Foundation is representing Brown and eight other California business owners in a lawsuit that aims to ensure accountability in the regulatory process and challenges the appointment process that seemingly empanels CARB regulators for life terms.

“I initially tried to work with CARB, and I regularly talked to their staff,” recalled Brown. “However, I have come to the conclusion after dealing with them for so long that they do not understand business and they do not understand economics. I have lost 95 percent of my net worth because of senseless regulation. As it seems CARB is not interested in complying with California rules applicable to itself, I am taking them to court”.

Brown’s company paves roads, which is essential in enhancing California infrastructure (which I thought was a government responsibility). His team utilizes a lot of portable diesel equipment impacted by the CARB rules - and, like Bloom, cannot economically retrofit or replace his units. He also employs a good sized staff. Putting the lie to the eco-sentiment that businessmen sacrifice everything for profit, Brown has not drawn a salary for since September of last year so he could pay his employees. Here is an example of his team’s work:

“My people need their checks,” said Brown. “I need my people to generate income. But I cannot sustain this loss forever. I will be out of business in three years if things don’t change.”

The essence of the PLF lawsuit, Brown vs. Adams, is that CARB is that there must be no regulation without representation. The Health and Safety Code that empowers the CARB scientific review panel’s nine members mandate sets three-year terms and requires nominations from a pool of qualified scientists be submitted by the President of the University of California. However, CARB’s website indicates that the majority now serving as panel members have held their positions for over a decade and the UC President has made no nominations since 2004.

“In a democratic system, the regulators must be answerable if not to the electorate, then to officials who themselves are representatives because they answer to the voters,” explained Attorney Damien Schiff, who is handling the case. “In the case of the scientific review panel, the lawfully designated appoint authorities are all answerable to voters - members of a Senate Committee, the speaker of the Assembly, and one of the governor’s cabinet members. These officials must be ordered to fulfill their duty and provide real and active oversight of the regulatory process by putting forward new nominations for the CARB science panel, as the law requires. This kind of oversight is especially urgent for CARB, an agency that has become notorious for imposing regulations that threaten to kill jobs and stifle economic recovery.”

Actions Californians can take:

- Please join us for the [March on Sacramento](#): Save California from Big Government Eco-regulation on August 28.

- Support the Pacific Legal Foundation so they can aggressively and successfully conclude the case on behalf of the plaintiffs.
- Contact CARB Chairman Mary Nichols directly: (916) 322-5840; mnichols@arb.ca.gov
- Assemblymen Chuck Devore, Mike Villines, and Lou Correa have asked for a temporary suspension of the economically devastating CARB rules; Inquire how you can support efforts to curb CARB's powers.
- Contact state representatives and ask them to eliminate CARB. This behemoth needs to be excised for the good of California. Given the egregious misuse of their power, if our representatives wish to empower real scientists to track air quality aspects for public health, then CARM needs to be disbanded so that our politicians can start from scratch for the best chance of a successful new program.
- The time has come to develop protocol to formally deem environmental action plans, such as the Air Quality Control Programs, successful so that the bureaucracy can be trimmed back from a problem-solving mode to a monitoring status. No one wants pollution, and while some industrial monitoring is needed, aggressive control of businesses under the banner of eco-do-gooderism goes well beyond the bounds of sensible government.

<http://www.ocregister.com/opinion/arb-10848-costs-state.html>

The Orange County Register September 05, 2009

Editorial: Harder to keep on trucking

An Orange County Register editorial

Amid the hype over last week's adoption by the state Air Resources Board of new regulations to curb greenhouse gases, much less attention was given to the ARB's companion action regarding diesel trucks.

While the costly, largely unnecessary plan to enforce 2006's Global Warming Solutions Act ultimately will be more broadly felt throughout California's economy, the new diesel regulations probably will be felt sooner. It will be a multibillion-dollar blow to an already aching economy.

By 2011, diesel truck operators must begin adding exhaust filters, at about \$10,000 each, and replacing trucks beginning in 2012, at about \$100,000 or more per vehicle. The ARB concedes truckers' total cost to be \$5.5 billion, a huge sum even in good economic times. The industry says costs will be closer to \$10 billion.

The trucking industry apparently doesn't dispute the state's claim that diesel exhaust is unhealthy and contributes to air pollution. But truckers complain that added costs will squeeze many companies out of business, and others will leave the state. The industry unsuccessfully requested more time to replace fleets with cleaner vehicles. Complaints like Southern California trucker Mark Binkley's failed to sway the ARB board, which imposed the costly rules on about 400,000 California-licensed vehicles and another 500,000 out-of-state trucks doing business here.

"What gives you the authority to tell me that not only do I have to junk my truck, but that I also lose the capital investment that I already have in it?" Mr. Binkley complained in an e-mail to the ARB, according to the Sacramento Bee.

The ARB admits the state's diesels are getting cleaner every year, but not clean enough fast enough to satisfy Sacramento's unelected bureaucracy. Previously the ARB imposed similar mandates on tractors and bulldozers. At that time the agency also similarly stepped outside its area of expertise, presuming to tell private businesses how much they can afford and remain profitable. We suspect a large motivation for the ARB was the possibility of it losing billions of dollars in federal funding if the state doesn't meet other arbitrary federal clean-air standards.

Taxpayers also will be saddled with huge costs. Adding insult to injury, the ARB will make \$1 billion in subsidies available to truckers to ease the financial pain.

The ARB contended that new regulations *could* save billions of dollars in health care costs. The difference is that while health care savings *could* occur, the costs to the trucking industry certainly *will*. Once again, on its own terms and timing, the government has imposed huge costs on the private sector, *hoping* to improve life, while *certainly* making life harder in the process.

<http://www.ocregister.com/articles/california-16487-diesel-health.html>

The Orange County Register September 05, 2009
(reprinted from May 21, 2008)

Henry Miller: Diesel-exhaust risks: mostly hot air?

By HENRY I. MILLER

Miller, a physician and molecular biologist, is a fellow at Stanford University's Hoover Institution.

If you were strapped for cash and lived in North Dakota, would you spend money on hurricane insurance? That would be as foolish as the recent actions of the [California Air Resources Board](#), part of the California [Environmental Protection Agency](#). As part of its mandate to ensure good air quality in the state CARB has begun to implement a program to reduce the diesel exhaust emissions from freight movement along California's trade corridors, including its seaports (which require huge amounts of truck traffic to transport arriving and departing containers).

This "Goods Movement Emission Reduction Plan" (GMERP) is the result of a determination in April 2006 by CARB that diesel exhaust particulate matter represents a significant health threat to Californians, supposedly causing respiratory diseases and 2,400 premature deaths per year. (Fine particulate matter is very small soot that diffuses deep into the lungs.)

Public funding for this initiative comes from a transportation bond approved by California voters in 2006 that provides a billion dollars to implement reductions in diesel exhaust emissions. However, a large coalition of California truck owners, farmers, construction contractors, and business and community leaders has raised serious concerns about GMERP. This coalition recently estimated that applying these new emissions regulations to the approximately 2.3 million diesel trucks that move goods throughout California could cost at least \$8 billion.

This new burden could further damage the state's economy, which is already faltering in the face of falling real estate values and confiscatory taxes. Moreover, California will be at a competitive disadvantage because no other state has a similar diesel emissions reduction program.

The fundamental question is whether this project is a cost-effective use of public and private resources.

To answer that question, let's begin at the beginning. How solid is the evidence that diesel exhaust particulate matter is a significant threat to the health of Californians? CARB's estimate that particulate matter is responsible for 2,400 premature deaths appears to be based primarily on a 2005 epidemiological study from USC that found a substantial association between fine particles and mortality in the Los Angeles basin during 1982-2000.

Other research, however, including experimental laboratory evidence, has failed to confirm those findings. In particular, a major nationwide study released in 2000 by the [Health Effects Institute](#) in Boston found no excess mortality risk associated with fine particles in California during 1982-89, and a large and detailed 2005 epidemiological study from [UCLA](#) found no

association between fine particulate matter and mortality in elderly Californians during 1983-2002. Likewise, the U.S. Environmental Protection Agency's voluminous 2002 report "Health Assessment Document for Diesel Engine Exhaust" did not conclude that diesel exhaust causes premature deaths. Moreover, current levels of particulate matter in California's air are the lowest ever recorded.

All of this indicates that CARB has exaggerated the adverse health effects of diesel exhaust and tried to portray these effects as being firmly established.

The GMERP is already creating mischief and damaging the state's economy. A recently adopted plan to clean up the air in and around the Port of Long Beach by replacing thousands of aging diesel trucks is creating havoc among trucking company employees and independent truck drivers over how this costly plan will be implemented, and there are efforts under way to establish a new port in Baja California because of the onerous, debilitating environmental regulations and constraints on development at the ports of Long Beach and Los Angeles (the two busiest in the United States). This new Mexican port would siphon billions of dollars away from the California economy and cause the transfer of many lucrative trucking and port jobs across the border.

CARB fails to appreciate that regulation intended to reduce health risks imposes costs that must be weighed against the benefits. The direct and indirect expenses related to government programs - for purposes good, bad, or indifferent - exert an "income effect" that reflects the correlation between wealth and health. The accumulation of wealth by societies is necessary to fund medical research, build schools, support infrastructure and sanitation, and even to improve environmental amenities. It is no coincidence that richer societies have lower mortality rates and cleaner environments than poorer ones. Thus, to deprive communities, or individuals, of wealth is to increase their health risks. Conversely, the deprivation of income itself has adverse health effects, including an increased incidence of stress-related problems, including ulcers, [hypertension](#), heart attacks, depression and suicide.

It is difficult to quantify the relationship between the deprivation of income and mortality, but academic studies suggest that every \$5 million to \$10 million of regulatory costs will induce one additional fatality through this "income effect." (Thus, the conservatively estimated direct and indirect costs of the GMERP could themselves cause on the order of 2,000 deaths.)

At a time when the California economy is slowing, and the state faces a huge budget deficit, state officials must establish priorities rigorously. Before expending scarce state resources on GMERP and placing a huge financial burden on the trucking industry - costs that will be passed on to businesses and, ultimately, to consumers - CARB should reassess the overall health effects of diesel exhaust in California and the relationship between fine particles and mortality. If CARB does not change course, billions of pollution-reducing dollars will, in effect, vanish into thin air.

<http://www.environmentalleader.com/2009/08/27/carb-giving-fleet-managers-headaches/>

Environmental Leader August 27, 2009

CARB Giving Fleet Managers Headaches

Many of California's efforts to reduce greenhouse gas emissions from motor vehicles may cause headaches for small commercial fleet owners whose older trucks are difficult to retrofit in a cost effective manner.

According to the [California Air Resources Board](#) and the U.S. EPA, diesel engine emissions contribute to some 3,500 premature respiratory and cardiovascular deaths and thousands of hospital admissions annually in California. The complex mix of pollutants emitted by diesel engines include visible carbon particles, or "soot," known as diesel PM. The diesel PM contains more than 40 cancer-causing substances and is the most common airborne toxic that Californians breathe.

In an effort to cut emissions, the Board has developed a 14-point program, the [Diesel Risk Reduction Plan](#), to slash diesel emissions in the next decade. Other emission reduction plans for California's commercial trucks include the 2010 Diesel Exhaust Emission Program, the Heavy Duty Vehicle Idling Emission Reduction Program, the Heavy Duty Vehicle Greenhouse Gas Emissions Reduction measure, and the Truck and Bus Regulation Reducing Emissions from Existing Diesel Vehicles measure.

This bevy of rules for commercial trucks passing through California makes it nearly impossible for fleets with older trucks to maintain compliance, Ken Gillies, truck engineering manager at GE Capital Fleet Services, [says](#) in a Fleet Owner article. Most larger fleets have replacement cycles that meet or exceed CARB standards, but private individuals and smaller fleet owners typically keep their trucks longer and will most likely feel the effects of the new ARB requirements. Agricultural businesses that operate cab over engine (COE) tractors with 57-foot trailers, for example, may have a difficult time retrofitting such models simply because they are no longer available.

While some fleets may configure some California trucks and other non-California trucks, the logistics of ensuring that a non-California truck doesn't end up in California incurring fines could be difficult, Gillies says.

Eighteen other states are considering vehicle emission regulations similar to the CARB rules.

<http://www.bakersfield.com/news/columnist/henry/x140060577/LOIS-HENRY-Lies-tarnish-air-boards-credibility>

The Bakersfield Californian November 20, 2009

LOIS HENRY: Lies tarnish air boards credibility

Friday, Nov 20 2009 07:31 PM

It's not the lie, it's the cover up that'll get you.

How many times does this wisdom have to be pounded into the heads of bureaucrats?

The scandal over how a lead researcher behind California's new diesel truck rules lied about his credentials continues to grow.

At Thursday's California Air Resources Board meeting, one of the board members said the legitimacy of the rule is in question because of the lie and subsequent cover up and asked for a legal opinion on what should be done next.

The problem started with Hien Tran, the lead author of the report on which the new diesel rules were based, who lied about having a Ph.D. degree in statistics from U.C. Davis.

Though the lie was brought to some CARB bureaucrats' attention well before the vote on the draconian rules last December, it was kept "in house" until I and an editorial writer for the San Diego Union Tribune got wind of it and started hammering on it early last spring.

Turns out, not all the board members, who voted on the rules based on Tran's report, were told of his lies.

But some were -- and kept mum.

The issue was brought to the full board's attention at its September meeting in Diamond Bar by regular citizens.

At the time, board member John Telles, a medical doctor, was quite upset, saying, "This is the first time I've actually been apprised that there was fraud in the organization here.

"In my world, if an article was published by somebody who didn't have a Ph.D. and said he had a Ph.D., the whole thing would be nixed...I just find it incredible."

Well, he did some of his own digging and at this week's meeting he asked that CARB's legal counsel issue an opinion on what more should be done.

Telles also laid out a stunning chronology that revealed many CARB muckey-mucks, including chair Mary Nichols, knew about the lie before the vote and never said anything.

Tran's lie was first brought up by Dr. Stan Young in November 2008 to the California Secretary of the Environmental Protection Agency, who sent Young a letter dated Nov. 4, 2008, assuring him of Tran's credentials.

Then on Dec. 3 and 4, 2008, UCLA professor Jim Enstrom contacted three CARB board members telling them of Tran's indiscretion.

One of those board members, who I've reported was John Balmes, asked CARB staffers to investigate.

By Dec. 10, Tran had confessed. Those in the know included Nichols, Balmes and at least five other top CARB members.

The vote on the diesel rules using Tran's report was the next day, Dec. 11, 2008 and the full board wasn't told.

Even after the cat was out of the bag at last September's meeting, Telles said, "Staff never mentioned that they had this information prior to the vote."

Based on all that, Telles said, the legitimacy of the vote is in question as well as the legitimacy of the truck rule "and CARB itself."

"How we handle this reflects on the future credibility of CARB."

Yes, it does. Just ask Richard Nixon.

<http://www.signonsandiego.com/news/2009/nov/22/air-boards-shame-staff-never-revealed-internal-sca/>

San Diego Union-Tribune November 22, 2009

The air board's shame / Staff never revealed internal scandal before crucial vote

SUNDAY, NOVEMBER 22, 2009 AT MIDNIGHT

On Dec. 12, 2008, the California Air Resources Board unanimously approved groundbreaking new rules governing diesel emissions. Members rejected complaints from the trucking industry about their heavy cost and from some academics who said CARB grossly exaggerated the health risk posed by the emissions.

Soon afterward, a Union-Tribune editorial writer confirmed allegations that Hien T. Tran – the lead scientist and coordinator of the study used to justify the stringent new diesel regulations – had lied about holding a Ph.D. in statistics from the University of California Davis. Instead, it turned out, Tran had a mail-order Ph.D. sent to him from a “university” based at a mailbox at a UPS office in New York City – and that senior air board officials knew this before the Dec. 12 vote.

Incredibly enough, air board Chairwoman Mary Nichols has pretended this is a minor problem. Instead of suspending the diesel rules until the research they were based on was thoroughly investigated by an independent outside group, board officials never revealed Tran's deceit to the public. This editorial page and The Bakersfield Californian have provided the only print media coverage since the scandal broke.

Tran wasn't even fired, just demoted.

This is not how a reputable government agency should behave. This is shameful. And at long last, someone with authority within the air board has finally figured this out.

On Nov. 16, Dr. John G. Telles, a Fresno cardiologist appointed to the air board by Gov. Arnold Schwarzenegger in April 2008, wrote a letter to Ellen Peters, the air board's chief counsel, in which he said the air board's staff failed to meet its “ethical if not legal obligation” to provide all board members with pertinent information before a vote on a state regulation.

Telles had never heard about Tran's deception until a Sept. 24 air board meeting in Diamond Bar, when it was raised during public testimony about the harsh toll the diesel rules threatened to have on businesses whose trucks and off-road vehicles have to be scrapped or retrofitted at great cost. Only after that meeting did CARB officials finally tell all board members the truth about Tran.

Telles says this withholding of key information must be addressed. “Not taking action seems unacceptable in light of what appears to be a violation of procedure with both ethical and perhaps legal implications. How we handle this procedure will reflect on the future credibility of

CARB. I believe that CARB needs to seize the initiative and take steps to protect and preserve the integrity of CARB, its board members and the decision-making process.”

We could not agree more. Mary Nichols’ handling of this matter has been indefensible and outrageous.

Will other air board members figure this out, too? Will the governor, whose office was informed about Tran’s deception last December? For that matter, will the California media?

We shall see.

<http://green.autoblog.com/2009/11/24/report-carb-hid-information-about-scientist-in-diesel-emission/>

AutoBlogGreen November 24, 2009

REPORT: CARB hid information about scientist in diesel emission rules fight

by [Sebastian Blanco](#) Nov 24th 2009 at 11:58AM

Strict regulations on diesel emissions that the California Air Resources Board approved in December 2008 are coming under renewed fire. At the time, members of the trucking industry and others complained that CARB was acting all Chicken Little and exaggerating how bad the diesel emissions were for human health. Since then, it turns out, one of the scientists involved in the study that detailed the negative health effects misrepresented his credentials. Instead of getting his Ph.D. in statistics from the University of California Davis, Hien Tran actually got a mail-order Ph.D. from a "university" based at a mailbox at a UPS office in New York City.



This is all according to the [San Diego Union-Tribune](#), which also says that CARB knew about the misrepresentation before their vote to approve the diesel regulations but did not reveal the information. From [the looks of it](#), those regulations may need to be dialed back because the legitimacy of the rule is in question, says board member John Telles. Thus far, CARB chair Mary Nichols (pictured) has not been willing to admit that there is a problem, but she may be forced to change her mind and let science beat secrecy.

[Source: [San Diego Union-Tribune](#), [The Bakersfield Californian](#)]

<http://www.bakersfield.com/news/columnist/henry/x789211529/LOIS-HENRY-Arrogance-pollutes-air-board>

The Bakersfield Californian December 1, 2009

LOIS HENRY: Arrogance pollutes air board

The Bakersfield Californian | Tuesday, Dec 01 2009 05:20 PM

As much as the California Air Resources Board would like to ignore this pesky little issue of a researcher lying about his credentials and using questionable methodology to pop out a report so the board could justify its draconian new diesel restrictions, I'm not lettin' it go.

Particularly after looking at documents one board member gathered to find out just how many CARB board members knew about the fraud prior to voting on the rule, which could cripple California's trucking industry.

The arrogance is breathtaking.

"Basically, I was guilty of thinking that since I 'knew' the underlying truth of the information we should not allow this stupid personnel problem to derail a critical rulemaking," wrote CARB Chair Mary Nichols in an email to board member John Telles about what she knew of the researcher's deception and when.

Errrk! Stop right there.

Since Nichols "knows" the truth of how pollutants affect health (the crux of the report by researcher Hien Tran), why'd we need a report at all? For that matter, why does CARB even need a research division? Or, following her logic on down the rabbit hole, why even have a voting board? Just crown Nichols "air queen" and be done with it.

But her email goes on.

"While the relentless criticism has been a distraction, frankly I think it is manageable."

She calls Tran's indiscretion "a very annoying distraction" even as she admits his actions were "both illegal and unethical."

Still she defends his report as solid and says, "At the time, I thought that Tran's voluntary demotion and removal from the project would be sufficient to insulate the rest of the ARB until we could proceed to disciplinary action and obtain a new review of the mortality report."

Oh, my. I suppose she's never heard the old saying about how when you're in a hole the first thing you should do is STOP DIGGING.

It's not just Nichols, though. Arrogance permeates CARB's ranks.

In a series of emails Telles gathered about the investigation into Tran's credentials, there's this gem from Bart Croes, CARB's Research Division Chief -- and Tran's boss:

"Hi Hien -- Sorry that you have to go through this, and it shouldn't matter to Enstrom whether or not you have a PhD, but I'd like to respond to John Balmes."

Yeah, cause a citizen shouldn't ask bothersome questions of the people we're paying. Tsk! Tsk!

Enstrom, by the way, is James Enstrom, a UCLA epidemiologist who was alerted to Tran's lack of credentials by a statistician from North Carolina, Stan Young, who'd first asked about it in July 2008 and was given the brush-off. Balmes is another CARB board member who was alerted to the problem by Enstrom in December 2008 before the board voted on the rule. Both he and Nichols chose to withhold the Tran information from the full board.

Speaking of Balmes, he, like Nichols, also said he knew enough to cast his vote for the truck rule regardless of Tran's report.

"I based my original vote for the truck rule on what I know of the science, not on Tran's report," he told me in an email. "Therefore, I do not see the need to suspend the rule based on Tran's misrepresentation."

So was this report just some feel-good farce to lull the public into thinking we have a voice in our own governance? (Gosh, that would be so cynical.)

Balmes did allow that Tran's misrepresentation casts doubt on CARB's credibility overall and the report should be redone by an independent body.

At least we agree on that.

After reading both the draft and final reports, plus all the comments attached to both and the studies listed in the report, I also disagree that it was a mere compilation of available science, as Nichols, Balmes and others are now trying to color it.

Tran used some -- but not all -- studies available on how many people PM2.5 may kill each year. He dismissed studies that found little to no evidence of premature deaths. And he ignored parts of other studies showing elevated death rates in other parts of the country, but little to none in California.

That's just one of the judgment-based aspects of Tran's report that seemed to me -- a mere layperson -- biased toward a particular outcome.

Incidentally, Young began asking about Tran's credentials in July 2008 after reading the report. "The reasoning appeared too flawed to be done by a capable statistician," Young wrote to board member Telles.

Telles has been openly appalled not only by Tran's deception but by the lackadaisical attitude among CARB staffers toward the issue.

Though CARB's lawyer, Ellen Peter, has said the Dec. 2008 vote on the truck rule is legal, Telles has asked whether the board should take some kind of action to assure the public the rule has been properly vetted.

It was supposed to be on next week's agenda, but all I could find was a discussion item looking at the rule's economic impact.

"I have no idea what to do next if they ignore my request," Telles told me. "It's very frustrating."

Opinions expressed in this column are those of Lois Henry, not The Bakersfield Californian. Her column appears Wednesdays and Sundays. Comment at people.bakersfield.com/home/Blog/noholdsbarred, call her at 395-7373 or e-mail lhenry@bakersfield.com

<http://www.fresnobee.com/local/story/1732165.html>

The Fresno Bee December 1, 2009

Fresno doctor wants truck air rules suspended

Staff member who lied about his training helped with research.

Posted at 09:14 PM on Tuesday, Dec. 01, 2009

By E.J. Schultz / Bee Capitol Bureau

SACRAMENTO -- A Valley representative on the state air board wants the board to suspend new pollution rules for trucks because they rely on research from a staff member who lied about his credentials.

California Air Resources Board member Dr. John Telles of Fresno voted for the landmark regulations a year ago. But months later he found out that the lead author of a report on health effects of soot falsely claimed to have a doctorate in statistics from University of California at Davis. Hien Tran later confessed that he obtained an online degree from Thornhill University, state documents say.

"Failure to reveal this information to the board prior to the vote not only casts a doubt upon the legitimacy of the truck rule but also upon the legitimacy of [the California Air Resources Board] itself," Telles wrote in a Nov. 16 letter to Ellen Peter, the board's chief counsel.

In an e-mail to Telles, board chairwoman Mary Nichols said she was aware before the vote that Tran had misrepresented his credentials. She downplayed his role -- noting his work was reviewed by others -- but said "it was a mistake not to have informed you and the rest of the board about this issue."

Peter also responded to Telles, telling him in a letter that the board met procedural requirements and the "legitimacy of the truck rule is not undercut."

But Telles is not satisfied.

"I voted for the truck rule because I thought it was a good idea, but I don't think it's a good idea to not have all the information," he said in an interview. The board should "temporarily set aside the truck rule until this gets worked out," he said -- adding that he might make the request at a board meeting next week. The regulations, approved in December 2008, require owners of older trucks to install pollution filters starting next year. Beginning in 2013, owners must replace older trucks with 2010 or newer models.

The regulations drew praise from environmentalists and some asthma sufferers in the Valley, who blame truck pollution for health problems. But the trucking industry lobbied against the rules, saying they could not afford to buy the smog controls or new rigs during a recession.

Big diesel trucks are a major contributor to soot pollution -- known as particulate matter -- and most trucks on the road today have few emissions controls or none, according to the Air Resources Board.

The report Tran assembled blamed particulate matter for thousands of premature deaths statewide annually.

In his letter, Telles said he found out in September that Tran did not hold a University of California degree when the issue came up in public testimony. Telles spent hours researching the matter. He requested internal documents and discovered that Tran confessed the misrepresentation to air board executives on Dec. 10 -- the day before deliberations on the truck rule began.

Earlier in 2008, Dr. S. Stanley Young, of the National Institute of Statistical Sciences, sent a letter to Gov. Arnold Schwarzenegger questioning Tran's report, saying "none of the authors are professional statisticians."

Linda Adams, the governor's Secretary for Environmental Protection, defended the report in part by citing Tran's University of California degree.

Tran has since been demoted and was suspended for 60 days without pay as punishment for the misrepresentation, said air board spokesman Leo Kay.

In her e-mail to Telles, Nichols said Tran was "not the source of any original research, but really just a compiler."

Telles, a cardiologist, said he doesn't dispute the science. But he wants the report reviewed by researchers who were not involved the first time.

THE REPORTER CAN BE REACHED AT ESCHULTZ@FRESNOBEE.COM OR (916) 326-5541.

<http://www.sacbee.com/walters/story/2363161.html>

The Sacramento Bee December 2, 2009

Dan Walters: Air board's cover-up casts pall on diesel rules

By Dan Walters

dwalters@sacbee.com

Published: Wednesday, Dec. 2, 2009

A year ago, high officials of the [California Air Resources Board](#) learned that the author of a statistical study on diesel soot effects had falsified his academic credentials.

The [CARB](#) researcher, [Hien Tran](#), acknowledged the deception and agreed to be demoted, but after his data were given another peer review, they remained the basis of highly controversial regulations that will cost owners of trucks, buses and other diesel-powered machinery millions of dollars to upgrade their engines. The [Tran](#) study concluded that diesel "particulate matter" was responsible for about 1,000 additional deaths each year.

Only recently, with the rules on the verge of final promulgation, did board officials formally acknowledge [Tran's](#) falsification, largely because one board member, Fresno cardiologist [John Telles](#), did his own investigation and complained about an apparent cover-up.

Telles, in sharp letters to board officials and during last month's [CARB](#) meeting, said the chain of events casts a pall over the legitimacy of the vote to proceed with the new rules.

"Failure to reveal this information to the board prior to the vote not only casts doubt on the legitimacy of the truck rule, but also upon the legitimacy of [CARB](#) itself," Telles said, adding, however, that he doesn't question the validity of the science.

Industry critics have jumped on the revelation that [Tran](#) falsely claimed he received a doctorate from the [University of California](#), Davis, but the board's staff rejects the complaints.

"What [Tran](#) did was bad," [James Goldstene](#), [CARB's](#) executive officer, said Tuesday, "but the science was sound."

"Nobody was kept in the dark," Goldstene said in response to Telles. "I don't think his point is valid."

However, [Mary Nichols](#), [CARB's](#) chairwoman, told Telles in a Nov. 10 e-mail that the "staff response was a matter of poor judgment, but not deceptive or irresponsible," and she added her personal apologies "for failing to convey information you were entitled to have."

In July 2008, Dr. S. [Stanley Young](#), an official of the [National Institute of Statistical Sciences](#), wrote to Gov. Arnold Schwarzenegger, complaining that "none of the authors (of the report) are

professional statisticians." Four months later, California Environmental Protection Agency Secretary Linda Adams told Young – in a letter drafted by Tran – that the study team was qualified, citing Tran's UC Davis doctorate.

Shortly thereafter, just one day before CARB was to act on the truck rules, board officials learned of the false doctorate after a University of California professor who's critical of the rules told them that Tran lacked the degree, but only a few board members were informed. Although reports of Tran's deception circulated for months, including a couple of brief media mentions, it wasn't until recently that CARB officials publicly acknowledged it.

As Telles says, the apparent cover-up casts a pall over the legitimacy of a very important – and very costly – state policy.

<http://www.allbusiness.com/science-technology/mathematics-statistical-method/13499793-1.html>

AllBusiness December 2, 2009

Walters: Cover-up casts doubt on California Air Resources Board policy

By Dan Walters

Publication: San Jose Mercury News (California)

Date: [Wednesday, December 2 2009](#)

A year ago, high officials of the California Air Resources Board learned that the author of a statistical study on diesel soot effects had falsified his academic credentials.

The researcher, Hien Tran, acknowledged the deception and agreed to be demoted, but after his data were given another

peer review, they remained the basis of highly controversial regulations that will cost owners of trucks, buses and other diesel-powered machinery millions of dollars to upgrade their engines. The Tran study concluded that diesel "particulate matter" was responsible for about 1,000 additional deaths each year.

Only recently, with the rules on the verge of final promulgation, did board officials formally acknowledge Tran's falsification, largely because one board member, cardiologist John Telles, did his own investigation and complained about an apparent cover-up.

Telles, in sharp letters to board officials and during last month's CARB meeting, said the chain of events casts a pall over the legitimacy of the vote to proceed with the new rules.

"Failure to reveal this information to the board prior to the vote not only casts doubt on the legitimacy of the truck rule, but also upon the legitimacy of CARB itself," Telles said, adding, however, that he doesn't question the validity of the science.

Industry critics have jumped on the revelation that Tran falsely claimed he received a doctorate from the University of California-Davis, but the board's staff rejects the complaints.

"What Tran did was bad," James Goldstene, CARB's executive officer, said Tuesday, "but the science was sound."

"Nobody was kept in the dark," Goldstene said in response to Telles. "I don't think his point is valid."

A year ago, high officials of the California Air Resources Board learned that the author of a statistical study on diesel soot effects had falsified his academic credentials.

The researcher, Hien Tran, acknowledged the deception and agreed to be demoted, but after his data were given another

peer review, they remained the basis of highly controversial regulations that will cost owners of trucks, buses and other diesel-powered machinery millions of dollars to upgrade their engines. The Tran study concluded that diesel "particulate matter" was responsible for about 1,000 additional deaths each year.

Only recently, with the rules on the verge of final promulgation, did board officials formally acknowledge Tran's falsification, largely because one board member, cardiologist John Telles, did his own investigation and complained about an apparent cover-up.

Telles, in sharp letters to board officials and during last month's CARB meeting, said the chain of events casts a pall over the legitimacy of the vote to proceed with the new rules.

"Failure to reveal this information to the board prior to the vote not only casts doubt on the legitimacy of the truck rule, but also upon the legitimacy of CARB itself," Telles said, adding, however, that he doesn't question the validity of the science.

Industry critics have jumped on the revelation that Tran falsely claimed he received a doctorate from the University of California-Davis, but the board's staff rejects the complaints.

"What Tran did was bad," James Goldstene, CARB's executive officer, said Tuesday, "but the science was sound."

"Nobody was kept in the dark," Goldstene said in response to Telles. "I don't think his point is valid."

However, Mary Nichols, CARB's chairwoman, told Telles in a Nov. 10 e-mail that the "staff response was a matter of poor judgment, but not deceptive or irresponsible," and she added her personal apologies "for failing to convey information you were entitled to have."

In July 2008, Dr. S. Stanley Young, an official of the National Institute of Statistical Sciences, wrote to Gov. Arnold Schwarzenegger, complaining that, "none of the authors (of the report) are professional statisticians."

Four months later, California Environmental Protection Agency Secretary Linda Adams told Young in a letter drafted by Tran that the study team was qualified, citing Tran's UC-Davis doctorate.

Shortly thereafter, just one day before CARB was to act on the truck rules, board officials learned of the false doctorate after a University of California professor who's critical of the rules told them that Tran lacked the degree, but only a few board members were informed.

Although reports of Tran's deception circulated for months, including a couple of brief media mentions, it wasn't until recently that CARB officials publicly acknowledged it.

As Telles says, the apparent cover-up casts a pall over the legitimacy of a very important, and very costly, state policy. Dan Walters is a Sacramento Bee columnist.

... Air board Chairwoman Mary Nichols refuses to answer whether she was aware of the allegations about Tran before the Dec. 12 vote -- justifying her refusal with inventive interpretations of state law and the federal Freedom of Information Act.

This reeks. Instead of quickly declaring that Tran's work would be scrutinized by independent outside experts -- the standard next step in cases such as this -- the air board is attempting to keep its actions secret in defiance of state law. ...

You don't have to be a cynic to wonder if all this is being done because key air board officials knew about the Tran allegations before the Dec. 12 vote but just didn't care. They were too eager to take their victory laps for their landmark new rules.

If this proves true, this is a genuine scandal -- not just a possibly minor flap over of a prominent bureaucrat falsifying his resume. Unfortunately, if Nichols and the air board get their way, we may never get to the truth.

Dan Walters should acknowledge this. I broke this scandal a year ago. But until Lois Henry of the Bakersfield Californian began writing about it a few months ago, everyone else in the California media studiously ignored what I had documented. Including Dan.

<http://www.examiner.com/x-3089-LA-Ecopolitics-Examiner~y2009m12d2-Californias-Climategate>

Examiner.com December 2, 2009

California's 'Climategate'

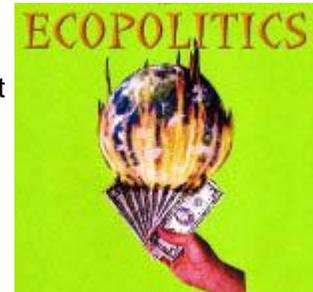
December 2, 10:33 AM • [LA Ecopolitics Examiner](#) • Paul Taylor

Last year, members of the [California Air Resources Board](#) (CARB) learned that the author of a critical study on diesel engine soot impacts, Hien Tran, had falsified his academic credentials. Tran admitted the deception, and accepted a Board demotion. However, Tran's analyses remained the basis for highly controversial and costly regulations imposed upon operators of trucks, buses and other diesel-powered machinery.

The [Tran](#) study concluded that diesel "particulate matter" (soot) was responsible for about 1,000 additional deaths each year. Tens of millions of dollars in engine upgrades will be required of California diesel operators under the new regulations.

Later, peer review of Tran's study sparked industry concerns that failure to reveal his credentials fraud to the Board prior to adopting the new regulations not only casts doubt on the legitimacy of the diesel rules, but also upon the legitimacy of [CARB](#) itself.

Last week's release of the U.K. Hadley Climate Research Unit computer files suggests that world-renowned climate scientists committed fraud in manipulating computer climate modeling data, terminology and research reports to promote the critical global warming theory that manmade greenhouse gases are warming the planet.



California deserves to have science fraud in its government, such as Tran, rooted out. It's clear among these recent science frauds that partisan ideologies and cultish environmentalism have corrupted environmental science and policy. What is also clear is that environmentalism no longer offers any product or service in support of our future security and prosperity.

http://www.mercurynews.com/opinion/ci_13909471?nclick_check=1

San Jose Mercury News December 2, 2009

Walters: Cover-up casts doubt on California Air Resources Board policy

By Dan Walters

Posted: 12/02/2009 12:47:41 PM PST

A year ago, high officials of the California Air Resources Board learned that the author of a statistical study on diesel soot effects had falsified his academic credentials.

The researcher, Hien Tran, acknowledged the deception and agreed to be demoted, but after his data were given another peer review, they remained the basis of highly controversial regulations that will cost owners of trucks, buses and other diesel-powered machinery millions of dollars to upgrade their engines.

The Tran study concluded that diesel "particulate matter" was responsible for about 1,000 additional deaths each year.

Only recently, with the rules on the verge of final promulgation, did board officials formally acknowledge Tran's falsification, largely because one board member, cardiologist John Telles, did his own investigation and complained about an apparent cover-up.

Telles, in sharp letters to board officials and during last month's CARB meeting, said the chain of events casts a pall over the legitimacy of the vote to proceed with the new rules.

"Failure to reveal this information to the board prior to the vote not only casts doubt on the legitimacy of the truck rule, but also upon the legitimacy of CARB itself," Telles said, adding, however, that he doesn't question the validity of the science.

Industry critics have jumped on the revelation that Tran falsely claimed he received a doctorate from the University of California-Davis, but the board's staff rejects the complaints.

"What Tran did was bad," James Goldstene, CARB's executive officer, said Tuesday, "but the science was sound."

"Nobody was kept in the dark," Goldstene said in response to Telles. "I don't think his point is valid."

However, Mary Nichols, CARB's chairwoman, told Telles in a Nov. 10 e-mail that the "staff response was a matter of poor judgment, but not deceptive or irresponsible," and she added her personal apologies "for failing to convey information you were entitled to have."

In July 2008, Dr. S. Stanley Young, an official of the National Institute of Statistical Sciences, wrote to Gov. Arnold Schwarzenegger, complaining that, "none of the authors (of the report) are professional statisticians."

Four months later, California Environmental Protection Agency Secretary Linda Adams told Young — in a letter drafted by Tran — that the study team was qualified, citing Tran's UC-Davis doctorate.

Shortly thereafter, just one day before CARB was to act on the truck rules, board officials learned of the false doctorate after a University of California professor who's critical of the rules told them that Tran lacked the degree, but only a few board members were informed.

Although reports of Tran's deception circulated for months, including a couple of brief media mentions, it wasn't until recently that CARB officials publicly acknowledged it.

As Telles says, the apparent cover-up casts a pall over the legitimacy of a very important, and very costly, state policy.

Dan Walters is a Sacramento Bee columnist.

http://www.mercurynews.com/news/ci_13910211?nclick_check=1

San Jose Mercury News December 2, 2009

Air regulator wants Calif diesel rule suspended

The Associated Press

Posted: 12/02/2009 02:46:21 PM PST

FRESNO, Calif.—A member of the California Air Resources Board wants to suspend new diesel emissions rules for trucks and buses after learning that a researcher whose work contributed to the rules falsified his credentials.

The researcher, Hien Tran, compiled research on health effects of soot. Air regulators considered the report when adopting the landmark pollution standards in December 2008.

Tran had claimed to have a doctorate from the University of California, Berkeley.

But board chairwoman Mary Nichols says Tran admitted a few days before the vote that his degree was from Thornhill University, an online, unaccredited institution. He was demoted and suspended for 60 days without pay.

Board member John Telles is now calling for the rules to be set aside until the report is reviewed by independent researchers.

Information from: The Fresno Bee, <http://www.fresnobee.com>

<http://drivecleanca.org/news/131.html>

Driving Toward A Cleaner California December 2, 2009

CARB Steals Name and Look of Driving Toward a Clean California (DTCC)

They create the ersatz website: "Driving Towards a Cleaner Future"!

December 2, 2009

Remember our DTCC "Driving Toward a Cleaner California", CARB apparently wants to purposely confuse industry/truckers to believe that our lobbying efforts against CARB's on-road regulations is now supporting it.

We need to take issue with CARB over this as it too closely mirrors our group, which unfortunately is no longer working together with all the founding members.

See link here: http://www.arb.ca.gov/msprog/truckstop/truck_brochure.pdf

Then name would be more fitting if it was "**Driving Businesses Out-of-Here in the Future**"!

See PDF Attachment: "CARB- Driving Towards A Cleaner Future"

Capitol Weekly December 3, 2009

ARB's diesel rule-making deeply flawed, member says

By **John Howard** | 12/03/09 12:00 AM PST

A year ago, on the eve of approving a landmark regulation curbing diesel soot from a million trucks and school buses, there was a sharp, behind-the-scenes discussion at the Air Resources Board.

Top ARB officials, including the executive director and the chairwoman of the board, learned by the night of Dec. 10, 2008, that the project leader of a crucial study on diesel pollution-related fatalities had falsified his credentials, claiming he had a Ph.D. Actually, he didn't.

Emails reviewed by Capitol Weekly indicate that three other board members also were aware of the concerns prior to the vote.

But nobody informed the full, 11-member board before it began to deliberate on the regulation the following morning – a regulation that was based, at least in part, on the findings of the study.

That failure casts doubt on the integrity of the ARB's decision-making procedures, one board member wrote two weeks ago in an internal letter to the ARB's top legal officer. He did not challenge the validity of the key study -- although others have. What was challenged was the failure to disclose information.

"I believe the legitimacy of the vote to be in question," wrote Fresno cardiologist John G. Telles, who represents the San Joaquin Valley Air Pollution Control District on the board.

He said that it was not "until nine months later at the public meeting of CARB in Diamond Bar, after public testimony raised this issue, that the staff informed the board

for the first time that the project coordinator and lead author of the Truck Rule had falsified his credentials.”

The staff “made no mention of the fact that they possessed this information prior to the vote,” Telles noted. He said ARB Chairwoman Mary Nichols also was aware of the credentials dispute but that she, too, did not alert the larger board.

“The public, of course, was also not informed,” he added.

Telles made the comments in a Nov. 16 letter to ARB Chief Counsel Ellen Peter. His letter reflected his own concerns, but they were similar to the concerns raised by others who spoke with Capitol Weekly, both from within the ARB and from outside the government.

Peter, responding to Telles, said questions about the author’s credentials had been raised during the public comment period on the regulation and that “there was no violation of the procedural statutory requirements. Since there is no internal ARB rule requiring staff to notify board members of any particular type of comment, there can be no procedural violation on that basis.”

Telles’ letter capped months of internal ARB discussion about the issue, as well as the April 2009 disciplining and demotion of the ARB staffer and report-project coordinator, Hien T. Tran.

The ARB, in part, based its truck rule decision on the final report, “Methodology for Estimating Premature Death Associated with Long-Term Exposure to Fine Airborne Particulate Matter in California.”

Questions about Tran’s credentials and the report he authored were raised weeks before the December 2008 vote by several experts.

The critics included James Enstrom, a veteran epidemiologist at the Jonsson Comprehensive Cancer Center at UCLA. Those concerns were reported by at least one publication, the San Diego Union-Tribune, which learned of the issue and followed it closely starting on Dec. 17, 2008, according to Telles’ letter.

Enstrom questioned findings in the report, noting that the authors of the study, including Tran, had “no relevant peer-reviewed publications,” according to the ARB’s “Notice of Adverse Action,” the official discipline document which it filed against Tran.

Another critic of the study was North Carolina-based statistician S. Stanley Young of the National Institute of Statistical Sciences, who wrote Gov. Schwarzenegger in July 2008 and noted that “none of the authors are professional statisticians.”

“Some are trained in epidemiology,” he added. “It is useful to know that the track record of epidemiologists in the use of statistics to make claims that are reproducible is very poor.” Four months later, a month before the ARB voted on the regulation, Young was told by the Schwarzenegger administration that Tran held a doctorate in statistics from UC Davis.

The ARB stands behind the scientific validity of Tran’s study, as does Telles.

James Goldstene, the ARB’s executive officer, said the report “went through three levels of formal, independent, external peer review before the report was finalized, and did not rely on the health research or original work of ARB staff.” Goldstene said the findings were then reviewed again when the ARB asked its 10 expert advisers to examine the report – nine stood by their earlier findings, and one did not respond. The ARB staff provided copies of the comments of Peters and Goldstene.

The board notes that the study ultimately was peer-reviewed by a number of experts, “with all reviewers finding out it was methodology scientifically sound and reasonable.” But because the report “provides input into the regulation, which in turn results in increased regulations to the trucking industry (whose affects are far reaching), the credibility of the lead author and project coordinator is paramount,” the ARB noted in its adverse action report.

The ARB, the nation’s premier air-quality enforcer, makes far-reaching decisions that often directly affect the pocketbooks of business, manufacturing, transportation and other interests. The board’s regulations are followed closely by other states, particularly in the heavily populated and industrialized Northeast.

Because its regulations have a fiscal impact, the ARB often is targeted by well-heeled interests seeking to soften, or block entirely, its regulations.

The diesel regulation was hotly opposed by the trucking industry and a number of strapped school-transportation offices, among others, and supported by health advocates and environmentalists. The rule was approved after a series of public hearings and contentious debate.

The ARB estimated the economic impact of the regulation at \$4.4 billion to \$5.4 billion, an amount that reflects the costs of equipping trucks with anti-pollution devices that can cost \$20,000 each. The regulation will be phased in over a decade.

The ARB said the regulation would curb the documented health impacts of diesel soot, which results in some 1,000 premature deaths annually in California, 320,000 cases of asthma-related illnesses, 2,400 hospital admissions and 2 million lost workdays. Health care costs associated with diesel soot run in the “tens of billions of dollars.”

Telles said “the scientific validity of the report is not the issue, but rather at issue is a fundamental violation of procedure. Failure to reveal this information to the board prior to the vote not only casts doubt upon the legitimacy of the truck rule but also upon the legitimacy of CARB itself.”

The phased-in rule requires truck owners, starting in 2011, to install diesel soot filters on their rigs, with nearly all vehicles upgraded by 2014. Truck owners also must gradually replace engines older than the 2010 model year during a 10-year schedule from 2012 through 2022.

http://www.landlinemag.com/todays_news/Daily/2009/Dec09/113009/120309-02.htm

Land Line Magazine December 3, 2009

Research fraud spurs CARB member to call for truck rule suspension

By Charlie Morasch, staff writer
charlie_morasch@landlinemag.com

It appears Christmas may be coming early for truckers this year.

A brewing scandal at the California Air Resources Board has resulted in one CARB board member calling for the suspension of CARB's most expensive truck rule to date.

Written under the authority A.B. 32 – the 2006 law that addresses global warming, the Truck and Bus rule requires trucking fleets to acquire diesel particulate matter filters and upgrade their truck engines beginning in 2012. Most small trucking businesses – including fleets of one to three trucks – will be exempt until 2014.

Numerous California and national news organizations reported this week that several top CARB officials, including CARB Chairman Mary Nichols, knew a year ago that the team leader and researcher on diesel pollution fatalities was a fraud and hadn't earned the doctorate degree he claimed on his resume.

The revelation came at least as early as December 2008, the day before CARB considered and approved its controversial Truck and Bus rule. The rule, which CARB research then estimated would cost the transportation industry \$6 billion to \$10 billion to comply with, requires diesel particulate filters and new engines for commercial trucks and buses on California roads and highways.

According to emails posted at www.killcarb.org, a CARB board member unearthed the scandal that top agency officials had managed to keep quiet for more than a year by asking Nichols and other CARB board members about the research and qualifications of agency employee Hien T. Tran.

In e-mails sent between CARB board members, Nichols and a head of the California EPA, Tran was revealed to not have a degree. The agency and state officials defended him although he was later disciplined internally.

CARB's Truck and Bus rule was approved partly because of Tran's research in the report, "Methodology for Estimating Premature Death Associated with Long-Term Exposure to Fine Airborne Particulate matter in California." In the report, Tran falsely claimed that he had a doctorate degree in statistics from The University of California at Davis.

Tran purportedly confessed on Dec. 10, 2008, one day before CARB's December board meeting began, and two days before the board approved its most expensive rule yet.

"I believe the legitimacy of the (truck and bus rule) vote to be in question," wrote CARB Board member John Telles, a cardiologist, almost a year later in a Nov. 16 letter to CARB's chief counsel.

Later, he said a "fundamental violation of procedure," combined with the agency's failure to reveal that information to the board before it voted to approve the truck and bus measure "not only casts doubt upon the legitimacy of the Truck (and Bus) rule, but also upon the legitimacy of CARB itself."

Telles' words have caused headlines nationally, and appear to be particularly damning to the air quality agency, which prides itself on being more restrictive than any such agency in the world. CARB is scheduled to approve eight different research projects next week that carry a combined \$2.4 million price tag.

So far in 2009, CARB has collected \$9.7 million in total fines, according to press releases from January to October. The figures were calculated by www.killcarb.org.

OOIDA Director of Regulatory Affairs Joe Rajkovacz, who has attended CARB board meetings, said the recent controversy should make California lawmakers question the power they've given the air quality agency.

"What else have they hidden?" Rajkovacz said. "Mary Nichols knew about this when she presided over the public hearings, and she chose not to disclose it. This is a damning indictment of CARB's process. The board should have delayed the Truck and Bus rulemaking until they evaluated the data by real professionals."

The December 2008 CARB Board meeting, which lasted nearly 12 hours, included several hours of discussion between agency staffers and board members regarding the effect the Truck and Bus rule would have on small businesses, particularly in trucking.

Eventually, the board approved the rule.

"It turned out the public hearing on the Truck and Bus rule was nothing but a dog and pony show," Rajkovacz said after finding out about the questionable research.

"You cannot defend data that was assembled by an ethically challenged individual. People have been defending the statistics by saying it was peer reviewed – well, big deal. The individual who compiled the data did not possess the academic credentials claimed. Tran didn't, and CARB's top executives defended him.

"Mary Nichols didn't have the courage to even bring up this information during last year's hearing."

CARB spokesman Leo Kay told *Land Line Now's* Reed Black Thursday that CARB would probably address the Tran situation and a potential change in the Truck and Bus rule's implementation at its board meeting on Wednesday, Dec. 9.

The down economy has given CARB staff reason to look at whether down vehicle miles traveled and fuel purchases could indicate corresponding decreases in greenhouse gas emissions, Kay said. That could lead to a relaxing of the rule's emissions standards.

"Trucks are sitting idle, and some off-road equipment is sitting idle as a result of the bad economy," Kay said. "We have a plan to allow for some of the reduced emissions that we've got. We'll present the board with a few different options: Do we stay the course on current deadlines, do we allow a little more room, or maybe even a Plan C. It's up to the board next week."

Kay described the Tran scandal as an "unfortunate set of circumstances," and said Nichols felt some regret.

"I think in retrospect, she feels she should have told the whole board as soon as we knew," Kay said. At the time, things were moving quickly. It was just a day or so before the hearing when the news broke."

One blog post by *The San Diego Tribune* revealed a photo of the address listed for Thornhill University, the New York school from which Tran claimed he gained his doctoral degree. The building in the picture is a small United Postal Service storefront.

During the December 2008 CARB board meeting's discussion of the Truck and Bus rule, Telles questioned whether CARB should include an "off-ramp" should the rule prove to be more expensive than small trucking businesses could handle.

"I don't think the state of California wants to put people out of work," Telles said then.

Nichols responded quickly.

"We've never adopted a rule that didn't have severe opposition," she said in December 2008. "We always go by data given to us by sources, and methods of compliance turned out to be somewhat different than they were at the beginning. It's the difficulty of this work we do in the air regulatory field that we're always betting. When we get close to the brink, if we're wrong – we have to change."

– *By Charlie Morasch, staff writer*
charlie_morasch@landlinemag.com

<http://www3.signonsandiego.com/news/2009/dec/03/suspend-diesel-rule-critics-urge/>

San Diego Union-Tribune December 3, 2009

Suspend diesel rule, critics urge

Roberts: Researcher's lie compromises study

By [Michael Gardner](#), U-T SACRAMENTO BUREAU

THURSDAY, DECEMBER 3, 2009 AT 12:01 A.M.

The rule would require owners of nearly 1 million trucks and buses to change out the engines in older models or install anti-pollution devices on newer ones starting in 2011.

SACRAMENTO — The state Air Resources Board is under mounting pressure from within its own ranks to suspend a regulation that forces diesel truck owners to gradually replace older rigs that spew toxic soot.

Beyond the possible economic harm to industry, critics of this toughest-in-the-nation rule are convinced that its validity has been compromised by revelations that the lead researcher, who crafted a persuasive study of diesel's damaging health effects, exaggerated his academic credentials.

Board members Ron Roberts, a San Diego County supervisor, and Dr. John Telles, a Fresno physician, have urged the agency to reconsider its unanimous December 2008 directive or risk a backlash of cynicism toward future clean-air initiatives.

"I don't think there's another option," Roberts said.

But other board members, while conceding that the episode has caused considerable embarrassment, said the peer-reviewed report on diesel soot accurately lays out the health risks. Those include findings that have been common knowledge for years, such as how diesel worsens respiratory illnesses, raises the rate of cancer and causes more premature deaths.

"There's been an effort in some quarters to say (the agency) cooked the books. ... I don't think the science changed at all, not one iota," said Dr. John Balmes, a board member and professor of medicine at the University of California San Francisco.

The researcher at the center of the controversy, Hien Tran, has been demoted for fabricating his doctoral degree from UC Davis. But that hasn't calmed critics, and some members of the air board are angry that several of the agency's executives and at least one board member knew of Tran's falsified résumé but kept quiet.

“Failure to reveal this information to the board prior to the vote not only casts doubt on the legitimacy of the truck rule but the legitimacy of the (agency) itself,” Telles said.

Under this cloud, the board will meet Wednesday to receive an update on the diesel regulation.

The rule applies to nearly 1 million trucks and buses and would require owners of those vehicles to change out the engines in older models or install anti-pollution devices on newer ones starting in 2011.

The underlying question before the air board is whether changes are warranted because soot emissions have sharply dropped with so many trucks idled by the economic slump.

Board members could tell their staff to craft a new timetable for the mandate, which they probably would vote on next summer.

Roberts and Telles are expected to seize the opportunity to call for a suspension and new health-impact studies. Telles voted for the original rule; Roberts was absent at that session.

Regulators have been meeting with truckers and contractors. They will do so again today at a workshop in Sacramento, where they will collect information for their Wednesday update to the board.

One challenge is figuring out whether California can meet federal clean-air mandates by 2014 without taking aggressive steps such as the new diesel standards, said Tom Cackette, the board’s chief deputy executive officer.

“That date is fixed in time. We can’t easily adjust,” he said.

Still, Cackette said, it’s fair to ask whether the recession has already produced the required soot reductions and would continue to do so as long as the economic slump drags on.

Mike Shaw, president of a recession-battered grading company in El Cajon, said he plans to ask the air board for relief.

“We’re doing everything we can to hang on to our business,” Shaw said.

The payroll at his business, Perry & Shaw, once numbered 175. Now it’s “maybe a dozen,” Shaw said.

The company spent more than \$5 million to retire or retrofit dirty engines before the bottom fell out of the market, he said. “We don’t have a dime to spend on it now,” Shaw said.

The gloomy numbers aside, he said the board needs a fresh start given the rising cynicism fueled by the researcher scandal.

“We need an honest look,” Shaw said.

Telles agrees. However, he doesn't question the health damage caused by diesel emissions. "The legitimacy of the vote may be in question," he said. "The scientific validity of the report is not the issue."

Public-health advocates urge the board not to lose sight of the fundamental target, arguing that vast evidence from sources worldwide supports the conclusion that soot is a serious threat.

"The cost of state rules to clean up diesel trucks will be far outweighed by the public-health benefits," said Fred Herskowitz, an Oakland doctor who specializes in respiratory illnesses.

<http://www.ocregister.com/opinion/tran-222324-board-carb.html>

The Orange County Register December 3, 2009

Dan Walters: Cover-up taints costly diesel policy

By DAN WALTERS

Sacramento Bee columnist

dwalters@sacbee.com

A year ago, high officials of the [California Air Resources Board](#) learned that the author of a statistical study on diesel soot effects had falsified his academic credentials.

The researcher, Hien Tran, acknowledged the deception and agreed to be demoted, but after his data were given another peer review, they remained the basis of highly controversial regulations that will cost owners of trucks, buses and other diesel-powered machinery millions of dollars to upgrade their engines. The Tran study concluded that diesel "particulate matter" was responsible for about 1,000 additional deaths each year.

Only recently, with the rules on the verge of final promulgation, did board officials formally acknowledge Tran's falsification, largely because one board member, cardiologist John Telles, did his own investigation and complained about an apparent cover-up.

Telles, in sharp letters to board officials and during last month's CARB meeting, said the chain of events casts a pall over the legitimacy of the vote to proceed with the new rules.

"Failure to reveal this information to the board prior to the vote not only casts doubt on the legitimacy of the truck rule, but also upon the legitimacy of CARB itself," Telles said, adding, however, that he doesn't question the validity of the science.

Industry critics have jumped on the revelation that Tran falsely claimed he received a doctorate from the [University of California](#), Davis, but the board's staff rejects the complaints.

"What Tran did was bad," James Goldstene, CARB's executive officer, said Tuesday, "but the science was sound."

"Nobody was kept in the dark," Goldstene said in response to Telles. "I don't think his point is valid."

However, Mary Nichols, CARB's chairwoman, told Telles in a Nov. 10 e-mail that the "staff response was a matter of poor judgment, but not deceptive or irresponsible," and she added her personal apologies "for failing to convey information you were entitled to have."

In July 2008, Dr. S. Stanley Young, an official of the National Institute of Statistical Sciences, wrote to Gov. [Arnold Schwarzenegger](#), complaining that, "none of the authors (of the report) are professional statisticians." Four months later, California [Environmental Protection Agency](#) Secretary Linda Adams told Young – in a letter drafted by Tran – that the study team was qualified, citing Tran's UC Davis doctorate.

Shortly thereafter, just one day before CARB was to act on the truck rules, board officials learned of the false doctorate after a University of California professor who's critical of the rules

told them that Tran lacked the degree, but only a few board members were informed. Although reports of Tran's deception circulated for months, including a couple of brief media mentions, it wasn't until recently that CARB officials publicly acknowledged it.

As Telles says, the apparent cover-up casts a pall over the legitimacy of a very important, and very costly, state policy.

<http://blog.fleetowner.com/trucking-straight-talk/2009/12/04/carb-should-do-the-right-thing-and-revisit-truck-rule/>

Fleet Owner December 4, 2009

CARB should do the right thing and revisit truck rule

Brian Straight December 4th, 2009

Just when everyone thought we were all set to move forward with the California Air Resources Board's (CARB) pollution rules set to go into effect next year, a wrinkle has been thrown into the plans.

CARB member Dr. John Telles, a cardiologist, has requested the rule that requires the installation of diesel particulate filters on trucks operating in the state be revisited after he learned that one of the authors of the report CARB used to create the rule "misrepresented his credentials," according to a story this week in the Fresno Bee.

According to the story, Hien Tran did not have a doctorate degree from the University of California at Davis, but rather an online degree from Thornhill University. The story goes on to say that board chairwoman Mary Nichols was aware of the discrepancy, but did not tell other members before the vote in December 2008.

The Bee article quoted a note Telles sent to Ellen Peter, the board's chief counsel. "Failure to reveal this information to the board prior to the vote not only casts a doubt upon the legitimacy of the truck rule but also upon the legitimacy of [the California Air Resources Board] itself," he wrote.

Telles is not calling for the rule to be overturned, but believes the board should suspend the regulation until such time that a new set of researchers can review and verify the legitimacy of the findings. Telles himself told the Bee he "doesn't dispute the science" of the report.

I have no reason to doubt whether the rule is needed. But with all the problems in society today regarding the falsification of credentials, from football coaches to executives, the prudent course of action would be for CARB to hire outside experts to review the report to eliminate any possible problems down the road, and from that perspective, Telles is right.

<http://www.environmentalleader.com/2009/12/04/carb-member-calls-for-diesel-rule-suspension-in-californias-climategate/>

Environmental Leader December 4, 2009

CARB Member Calls for Diesel Rule Review in ‘California’s Climategate’

A member of the California Air Resources Board (CARB) is calling for a review by independent researchers of the new diesel emissions rules for trucks and buses after learning that a researcher whose work contributed to the pollution standards in December 2008 falsified his credentials, reports the Mercury News.

One columnist is calling the issue the “California’s Climategate,” a reference to the recent leaked e-mails from scientists investigating climate change.

The truck and bus fuel emissions rule, written under A.B. 32, the 2006 law that addresses global warming, requires trucking fleets to acquire diesel particulate matter filters and upgrade their truck engines beginning in 2012, with the exception of small trucking businesses that will be exempt until 2014, according to Land Line Magazine. The estimated cost to the transportation industry is about \$6 billion to \$10 billion, according to the article.

The call for the truck rule suspension has also resulted in a brewing scandal at CARB as several California and national news organizations recently reported that several top CARB officials knew a year ago — before they voted on the Truck and Bus rule — that the team leader and researcher on diesel pollution was a fraud and did not have a doctorate degree as claimed, reports Land Line Magazine.

The revelation was discovered in emails sent between CARB board members, the head of CARB, and the California EPA, according to emails posted at www.killcarb.org, reports Land Line Magazine.

CARB spokesman Leo Kay told Land Line that CARB would probably address the situation and a potential change in the Truck and Bus rule’s implementation at its board meeting on Wednesday, Dec. 9.

The scandal is calling into question the power and the response of the air resources board to the scandal as well as the legitimacy of the costly policy.

Despite the board knowing that the researcher falsified his credentials, his analysis was used to impose the controversial and costly regulations on truck, bus and diesel-powered machinery operators, according to an [Examiner.com editorial](#).

A [San Diego Union-Tribune editorial](#) said it repeatedly criticized CARB for the adoption of “unprecedentedly sweeping and costly diesel-emission rules” and recently discovered that CARB Chairwomen Mary Nichols knew of the researcher’s fraud before the December 12, 2008 vote but decided not to inform the public, media or most of the board members.

The editorial also calls the deceit outrageous, citing Nichol’s explanation of the matter as a “distraction” and a “stupid personnel problem” rather than a scandal. In addition, the researcher still works at the agency, though he was demoted.

According to a [San Jose Mercury News opinion piece](#), James Goldstene, CARB’s executive officer, said that although what the researcher “did was bad the science was sound.” He also said that no one was kept in the dark about the issue.

http://www.landlinemag.com/Special_Reports/2009/Dec09/120409-oida-calls-suspension.htm

Land Line Magazine December 4, 2009

SPECIAL REPORT: OOIDA calls for suspension of CARB regs

Friday, Dec. 4, 2009 – OOIDA President Jim Johnston has called on the California Air Resources Board to suspend upcoming enforcement dates for two major emissions rules, which are about to be enforced.

In a letter sent to Gov. Arnold Schwarzenegger and CARB Chairman Mary Nichols, Johnston said enforcement of the state's drayage rule and Transport Refrigerated Unit rules should be delayed because of the ongoing economic recession combined with the air quality agency's emerging scandal, which "calls into question the legitimacy of the regulatory process used."

"Considering our nation's deep economic recession and the havoc it is wreaking on owner-operators and small-business motor carriers both in California and outside the state, I respectfully request that you grant an extension of the enforcement dates. This would allow more time for owner-operators and small-business motor carriers to access federal funding opportunities that have yet to be disbursed," Johnston wrote.

The CARB port drayage rule is scheduled to prohibit pre-1994 model year truck engines from being used on trucks at the port beginning on Jan. 1, 2010. The reefer, or TRU rule, requires trucks that haul reefers in California to meet the equipment portion of the state's "In-Use Performance Standards" for 2001 and older reefers beginning on Dec. 31, 2009.

OOIDA's request comes on the heels of a major scandal breaking this week in which it was shown that CARB's project team leader for developing its most expensive rule to date – the truck and bus retrofit rule – falsely claimed his education credentials.

While Johnston referenced the scandal in his letter, the nation's economic crisis and particularly California's down economy make a delay in the rules' enforcement necessary, he said.

CARB recently announced that many truck owners who obtained government grants to pay for emissions upgrades have been given a four-month extension to meet the port drayage rule. OOIDA believes that extension provides a particularly unfair advantage to some motor carriers.

"The deepest economic recession since the 1970s has placed the economic viability of many owner-operators and small-business truckers at significant risk," Johnston wrote.

"The high failure rate of trucking companies in this economy is well documented, and those not fortunate enough to secure public grants to aid in the high cost of compliance are placed in an unfair disadvantage versus their competitors (many who are larger motor carriers) that have received various forms of government aid."

Johnston pointed out that CARB granted an extension on the TRU rule in July out of concern for many truckers not being able to meet the original compliance date, and noted “that fact is still true.”

In addition, two CARB board members have publicly called for the suspension of the truck and bus rule to “re-establish the public trust,” Johnston wrote. “An extension would be viewed by many as a goodwill effort by the State of California while the Board sorts through the implications of the fraud.”

OOIDA has more than 157,000 members nationally and more than 5,500 members in California.

In e-mails sent between CARB board members, Nichols and a head of the California EPA, CARB researcher Hien Tran was revealed to not have a degree, though the agency and state officials defended him publicly.

CARB’s truck and bus retrofit rule was approved partly because of Tran’s research in the report, “Methodology for Estimating Premature Death Associated with Long-Term Exposure to Fine Airborne Particulate matter in California.” In the report, Tran falsely claimed that he had a Ph.D. in statistics from The University of California at Davis.

Tran purportedly confessed on Dec. 10, one day before CARB’s December 2008 board meeting began, and two days before the board approved its most expensive rule yet – the truck and bus retrofit rule.

“I believe the legitimacy of the (truck and bus rule) vote to be in question,” wrote CARB Board member John Telles, a cardiologist, in a letter to CARB’s chief counsel.

Later, he said a “fundamental violation of procedure,” combined with the agency’s failure to reveal that information to the board before it voted to approve the truck and bus measure “not only casts doubt upon the legitimacy of the truck rule, but also upon the legitimacy of CARB itself.”

CARB’s Nichols apparently knew that the researcher lied but withheld that information from most of the board for nearly a year.

Two CARB board members have criticized the agency as a whole for the research scandal and apparent cover-up.

CARB is scheduled to hold its December meeting on Wednesday, Dec. 9.

To read a copy of Johnston’s letter, click [here](#).

– *By Charlie Morasch, staff writer*
charlie_morasch@landlinemag.com

<http://www.signonsandiego.com/news/2009/dec/04/sac-bee-defies-own-policy-wont-correct-error/>

San Diego Union-Tribune December 4, 2009

Bee defies own policy, won't fix error

By [Chris Reed](#),

FRIDAY, DECEMBER 4, 2009 AT 11 A.M.

On Wednesday, Sacramento Bee columnist Dan Walters wrote about the Hien Tran academic fraud scandal at the California Air Resources Board. I broke this story on Dec. 18, 2008, with a blog item headlined "Breaking news: Air board investigating whether lead scientist on diesel regs lied about his Ph.D." that was picked up by Rough and Tumble. I followed it up with five editorials, four bylined print columns and much more blog coverage. Yet Walters wrote this in his column:

"Although reports of Tran's deception circulated for months, including a couple of brief media mentions, it wasn't until recently that CARB officials publicly acknowledged it."

A "couple of brief media mentions"? Walters made an error. I complained to him about this, got a dismissive reply and then a sarcastic one. I wrote to three Bee editors asking for a correction. Per its web site, "The Bee's policy is to acknowledge errors promptly."

Well, no, not really. Why does this aggravate me?

1. It was a factual error. Period. Columnists have leeway to write in an opinionated fashion, yes, but not to make factual errors -- or so I thought.

2. It reflects the Sacramento media establishment's insular, self-regarding ways. If a Sacramento-based reporter doesn't break a story, then there is no story. Give me a break.

3. I thought Walters wasn't as subject to this pathetic establishment clubbishness. He may be the most high-profile Sacramento columnist of them all, but he's broken with the groupthink on display on key issues before, especially the whole loopy "post-partisan" narrative that the Capitol press corps pushed from mid-2006 to early 2007 when in fact the state was still grossly dysfunctional.

I was wrong. The thousands of words I wrote outlining the Tran scandal, breaking new details as I pryed them out of the air board -- that's just a "couple of brief media mentions." News about state government isn't news to Dan unless it is written by someone in Sacramento.

I could get into the larger question of how thin, uncritical and superficial the Sacramento set's coverage of the air board has been, but I'm done wasting my time on this topic. It's been disillusioning.

I believed the Bee when it said that would "acknowledge errors promptly." I should have been far more cynical. The star columnist gets to make errors, it turns out.

<http://www.signonsandiego.com/news/2009/dec/04/still-shameful-air-boards-response-scandal-appalli/>

San Diego Union-Tribune December 4, 2009

Still shameful / Air board's response to scandal is appalling

FRIDAY, DECEMBER 4, 2009 AT MIDNIGHT

Beginning with two editorials in late December 2008, this editorial page repeatedly has criticized the California Air Resources Board for its headline-hunting decision to adopt unprecedentedly sweeping and costly diesel-emission rules at its meeting earlier that month. Soon after that meeting, we had confirmed that Hien Tran – lead author and coordinator of the study justifying the rules – lied about having a Ph.D. in statistics from the University of California Davis.

Our subsequent reporting showed senior air board officials from Chairwoman Mary Nichols down knew of Tran's academic fraud before the Dec. 12, 2008, vote but chose not to inform the public, the media or most of the board members who voted for the diesel rules.

The outrageousness of this deceit is finally being acknowledged. One of the board members who was kept in the dark – Fresno cardiologist John Telles – learned of the deception earlier this fall. Now Telles and another board member, San Diego County Supervisor Ron Roberts, are calling for suspension of the diesel rules.

But the reaction from the agency's hierarchy and board members to this common-sense request has been obtuse to the extreme.

Chief Counsel Ellen M. Peter told Telles that the board officials' failure to reveal the deception before the Dec. 12 vote didn't amount to a violation of proper procedures.

In a letter he co-wrote that was published in the Union-Tribune, board member John Balmes – who was informed of Tran's fraud by e-mail on Dec. 11, 2008, and failed to tell Telles and other colleagues about it – rejected all criticism of the air board for its actions in the Tran matter. But in an e-mail to Telles, he said "in retrospect" the Tran report should have been withdrawn – which can't be reconciled with his public comments.

Nichols is worst of all. In an e-mail to Telles, she acknowledged Tran's fraud was "illegal and unethical" and apologized for not disclosing it to the full board before the vote. But she characterized the matter as a "distraction" and a "stupid personnel problem" – not a real scandal.

It was, is and will continue to be a real scandal until the rules are suspended and a new study is done. It is worth remembering why the scandal ever came to light: because UCLA epidemiologist James E. Enstrom was so dismayed by the study's omission of crucial evidence that he began looking into Tran's background.

Enstrom needs to be given a chance to present the omitted evidence – and be taken seriously. He has been a fellow of the American College of Epidemiology since 1981. Tran? The Ph.D. he provided to his air board bosses when his UC Davis deceit emerged was from a diploma mill based at a Manhattan UPS store.

Yet Tran still works for the agency as a researcher. He was demoted, not fired. This speaks volumes about Mary Nichols' air board. As long as your "research" promotes ever-more-costly regulations, you're indispensable.

<http://www.signonsandiego.com/news/2009/dec/04/roberts-ignored-scandal-year/>

San Diego Union-Tribune December 4, 2009

Roberts ignored scandal for a year

By [Chris Reed](#),

FRIDAY, DECEMBER 4, 2009 AT 3:23 P.M.

County Supervisor Ron Roberts – a member of the California Air Resources Board – has finally realized it was wrong for the air board to cover up the fact that the lead author of costly, sweeping new rules on diesel emissions lied about his academic credentials.

This week, Roberts joined in the chorus of criticism of the air board for failing to publicly disclose the Hien Tran scandal, which began in December 2008. Today he had an op-ed in the U-T outlining his concerns.

But the editorial and op-ed pages of the U-T, his hometown paper, broke the story of the scandal last December 2008 and have had intensive coverage of it ever since.

Why does he only speak up now? Why does he act as if all this info has only recently become available?

I don't get it.

<http://www.signonsandiego.com/news/2009/dec/04/time-clear-air-and-breathe/>

San Diego Union-Tribune December 4, 2009

Time to clear the air and breathe

By Ron Roberts

FRIDAY, DECEMBER 4, 2009 AT MIDNIGHT

Breathe. For most of us, the air in our cities is the cleanest in our lifetimes. As a 15-year member of both the California Air Resources Board (CARB) and San Diego County Air Pollution Control District, I am proud of that fact and equally passionate about further improvement. But a pending state regulation to reduce diesel engine emissions carries an unpleasant odor, tainted by a falsified credential and information held secretly by staff and board members.

Next week, I will join my colleague Dr. John Telles in asking our fellow CARB members to suspend this "truck rule" regulation. Personally, this is an excruciating decision. Particulate pollution from large diesel engines causes annually thousands of premature deaths and cases of asthma, which I have.

Yet with these rules we are committing the owners of California-based commercial trucks and buses to \$4.5 billion in upgrades between 2010 and 2030. Imposing such expensive and groundbreaking regulation requires securing the full faith and confidence of the public. Unfortunately, actions by air board members and staff have shaken that trust.

The process began several years ago with efforts to further reduce diesel pollution. Much of the justification came from a report titled "Methodology for Estimating Premature Death Associated with Long-Term Exposure to Fine Airborne Particulate Matter in California."

Overseeing this report was Hien Tran, a longtime CARB staff member who claimed to have a doctorate in statistics from the University of California Davis. He did not, a fact known only to a few board members and staff, and not properly disclosed. Had the full board been informed, we could have delayed the public hearing process until corrective actions were taken.

In uncovering how this deception unfolded, Telles has collected an array of documents that shed new light on the selectively shared information. As Telles wrote in a letter to the agency's attorney: "If staff and the chair can choose what information it gives or does not give to the board, information that could influence how the board might vote, then what purpose does the board have?"

In CARB's own internal disciplinary communication with Tran, it worries about the results, writing, "Your dishonesty regarding your education has called into question the validity of the report. This report in turn supports other controversial and critical regulations adopted by Air Resources Board."

I gain little comfort knowing Tran was suspended 60 days and demoted – a light penalty.

Satisfied with the punishment, CARB staff views the issue as closed. Since the allegation of falsified credentials was included in a letter submitted to the board, all disclosure requirements were met, they contend. Yet this is the first time in my 15 years on the board that I have seen anything less than full disclosure.

This new information was not just a rehash of opponents' comments. Rather it was fresh material actively being vetted by top CARB staff in the hours leading to the vote. When Tran confessed two days before the Dec. 12, 2008 meeting that his doctorate was bought online for \$1,000, six executive level staff members and a few board members were told. Days earlier, three board members were alerted to the falsification by a UCLA professor.

As the post-vote months passed, word of the deception began to leak. A few journalists, including the Union-Tribune's Chris Reed, homed in on the truth. Finally, at the Sept. 24 meeting in Diamond Bar, staff confirmed in public Tran's transgression.

Today, air board staff defend the Tran report as one subsequently validated by "rigorous internal as well as external review." Therefore, no need to revisit the vote, they say. Some board members have gone so far as to declare, "There was no abuse, manipulation or dishonesty of any type."

Well, that is simply not accurate. The investigative work of Telles shows the opposite is true. This withholding of information violates an important trust and is as serious as the original fabrication of credentials.

Telles is a passionate supporter of clean air and hails from Fresno, an area severely impacted by diesel exhaust. We both badly want cleaner diesel emissions and believe a new public hearing process will validate most of the earlier results. For now, however, the rule set to take effect in 2010 must be suspended.

California maintains the most effective air board not just in our country, but in the world, by earning the public's trust and confidence. It is essential for our long-term reputation that we never lose sight of this truth. We need to clear the air of this controversy.

Roberts represents the Fourth District on the San Diego County Board of Supervisors.

http://www.fresnobee.com/opinion/valley_voices/story/1736578.html

The Fresno Bee December 5, 2009

RON ROBERTS: Gaining some extra time to breathe

Posted at 12:00 AM on Saturday, Dec. 05, 2009

By Ron Roberts

As a 15-year member of the California Air Resources Board, I am proud of our clean air successes and equally passionate about further improvement. But a pending state regulation to reduce diesel engine emissions is tainted by a falsified credential and information held secretly by staff and board members.

Next week, I will join my Fresno colleague, Dr. John Telles, in asking fellow CARB members to suspend the Truck Rule regulations. Personally, this is an excruciating decision. Particulate pollution from large diesel engines causes annually thousands cases of asthma, which I have, and premature deaths.

With these rules we are committing California's commercial truck and bus operators to \$4.5 billion in upgrades between 2010 and 2030. Imposing such expensive and groundbreaking regulation requires securing the full faith and confidence of the public.

Unfortunately, actions by air board members and staff have shaken that trust.

The process began several years ago and includes as a main source of justification a report titled "Methodology for Estimating Premature Death Associated with Long-term Exposure to Fine Airborne Particulate Matter in California."

Overseeing this report was Hien Tran, a long-time CARB staff member who claimed to have a doctorate in statistics from the University of California at Davis. He did not, a fact known only to a few board members and staff, and not properly disclosed during the public hearing. Had the full board been informed, we could have delayed the public hearing process until corrective actions were taken.

In CARB's own internal disciplinary communication with Tran it worries about the results, writing, "your dishonesty regarding your education has called into question the validity of the report. ... This report in turn supports other controversial and critical regulations adopted by Air Resources Board."

Board staff, however, views the issue as closed. Since the allegation of Tran's falsified credentials was included in a letter submitted to the board, it contends that all disclosure requirements were met. Yet this is the first time in my 15 years on the board that I have seen anything less than full disclosure.

This new information was not just a rehash of opponents' comments. Rather it was fresh material actively being vetted by top CARB staff in the hours leading to the vote.

When Tran confessed two days before the Dec. 12 meeting his lack of a doctorate from UC Davis, six executive level staff members and a few board members were told. Days earlier three board members were alerted to the falsification by a UCLA professor.

As the post-vote months passed, word of the deception began to leak. Finally, at the Sept. 24 meeting in Diamond Bar, staff confirmed in public Tran's transgression.

Today air board staff defend the Tran report as one subsequently validated by "rigorous internal as well as external review." Therefore, no need to revisit the vote, they say. Some board members have gone so far as to declare, "There was no abuse, manipulation or dishonesty of any type."

Well, that is simply not accurate. As Dr. Telles, who has shown enormous courage in exposing this deception, wrote in a letter to the agency's attorney: "If staff and the chair can choose what information it gives or does not give to the board, information that could influence how the board might vote, then what purpose does the board have?"

The withholding of information violates an important trust and is as serious as the original fabrication of credentials. Dr. Telles and I both badly want cleaner diesel emissions and believe a new public hearing process will validate most of the earlier results. For now, however, the rule set to take effect in 2010 must be suspended.

California maintains the most effective air board not just in our country, but in the world, and does so by earning the public's trust and confidence. It is essential for our long-term reputation we never lose sight of this truth.

We need to clear the air of this controversy.

RON ROBERTS IS A SAN DIEGO COUNTY SUPERVISOR AND HAS SERVED ON THE SAN DIEGO AIR POLLUTION CONTROL BOARD FOR 15 YEARS.

<http://www.bakersfield.com/news/columnist/henry/x211509113/LOIS-HENRY-Smack-down-at-the-air-board-I-can-only-hope>

The Bakersfield Californian December 5, 2009

LOIS HENRY: Smack down at the air board? I can only hope

The Bakersfield Californian | Saturday, Dec 05 2009 01:23 PM

Tell the board what you think

Should they suspend the truck rule and redo the PM2.5 report?

Tell them at:

arbboard@arb.ca.gov

Or contact the board's ombudsman at:

ombudsman@arb.ca.gov or (916) 323-6791

You can learn more about the ombudsman, which bypasses CARB senior staff and has direct access to board members at:

<http://www.arb.ca.gov/ba/omb/omb.htm>

You can also go to CARB's site and comment directly to the "records" of the Board meeting here:

http://www.arb.ca.gov/lispub/comm/bcsubform.php?listname=dec09update&comm_period=N

The meeting begins at 9 a.m. Wednesday

You can view it online here:

<http://www.cal-span.org/>

If you happen to be in Sacramento on Wednesday, you might want to drop by the California Air Resources Board meeting to watch the fireworks.

Ok, ok, ok, it's a government meeting, so fireworks might be a stretch.

Two board members have now stated publicly that they want the board to suspend the new diesel regulations that were to go into effect over the next few years requiring heavy trucks to retrofit with prohibitively expensive filtration devices to reduce PM2.5 emissions.

PM2.5 is tiny bits of soot in diesel emissions that CARB has deemed deadly per a report by CARB researcher Hien Tran that was used to justify the new regs.

Therein lies (part of) the problem.

Tran lied about having a PhD.

The other part of the problem, I say, is the crappy way Tran put the report together, discounting opposing studies that found no link between premature deaths and PM2.5 (especially in California) and averaging results of other studies and applying them across the state -- among other slap dashery.

His lie was discovered by a number of CARB muckety-mucks, as well as the Chair of the Board, Mary Nichols, and at least one other board member, John Balmes, prior to the December 2008 vote on the regulations.

But that information was kept from the full board.

It wasn't until September that board members got an earful from citizens about the Tran report.

That riled board member John Telles, a Fresno cardiologist, who threw down the gauntlet last month saying while the science in the report is solid (I disagree), CARB's credibility is now in question.

He wants to suspend the rule and redo the report.

Now board member Ron Roberts has joined Telles, writing in the San Diego Union Tribune on Friday that the retrofit requirements will cost California trucking businesses \$4.5 billion between 2010 and 2030.

"Imposing such expensive and groundbreaking regulation requires securing the full faith and confidence of the public. Unfortunately, actions by air board members and staff have shaken that trust."

Balmes and Nichols have already said they think the rule should stand.

They've both said Tran's report was incidental to their votes, that they "knew" the science supported the regulations.

Well, heck, if the science is so infallible, redoing the report should produce the same result, right?

Unless, of course, a redo would include an honest look at all the science, including those that find no link to PM2.5 and premature deaths.

And perhaps, not including studies in which the authors have refused to open their raw data to independent examination -- which, by the way, would eliminate the main studies Tran used in his report.

Back to the boardroom showdown.

So far, it's two against two.

There are 11 members total. So all Telles and Roberts need are four more level heads who care about good science and good government.

Given what we've seen so far from CARB, that seems like a big number.

Opinions expressed in this column are those of Lois Henry, not The Bakersfield Californian. Her column appears Wednesdays and Sundays. Comment at people.bakersfield.com/home/Blog/noholdsbarred, call her at 395-7373 or e-mail lhenry@bakersfield.com

<http://www.bakersfield.com/opinion/editorials/x211509139/Suspend-diesel-regs-then-do-it-right>

The Bakersfield Californian December 5, 2009

Suspend diesel regs, then do it right

The Bakersfield Californian | Saturday, Dec 05 2009 08:37 PM

Let there be no doubt: Soot, of the type produced by diesel engines, is hazardous to the human lung. We are all well advised to drastically limit our exposure.

That said, the California Air Resources Board has so thoroughly botched its efforts to regulate diesel emissions, the time has come to suspend rules aimed at cleaning up the estimated one million heavy-duty diesel trucks operating in California, due to go into effect in January 2011.

The problem is not the science supporting the Statewide Truck and Bus rules; no credible evidence suggests soot is anything but toxic to the respiratory system. The problem is a political fumble born of institutional dishonesty and arrogance so profound it boggles the mind.

California's new regulations, toughest in the nation, have been terminally compromised by revelations that the researcher who crafted a compelling study of diesel's damaging health effects falsified his academic credentials.

Hien Tran, the researcher in question, fabricated his doctoral degree from UC Davis, and at least one CARB board member knew about it, but kept quiet.

Big deal, some might say. Soot causes lung problems and a phoned-up resume doesn't change that.

"There's been an effort in some quarters to say (the agency) cooked the books ..." Dr. John Balmes, a board member and professor of medicine at the University of California San Francisco, told The San Diego Union-Tribune. "I don't think the science changed at all, not one iota."

But as pointed out by CARB board members Ron Roberts, a San Diego County supervisor, and Dr. John Telles, a Fresno physician who originally voted in favor of enacting the rule in December 2008, even the slight odor of impropriety invites a backlash of cynicism toward future clean-air initiatives.

"Failure to reveal this information to the board prior to the vote not only casts doubt on the legitimacy of the truck rule but the legitimacy of the (clean-air agency) itself," Telles told the Union-Tribune.

In an era when the opposing sides of assorted political and social issues wield competing scientific studies like clubs, it's more important than ever for legitimate policy-making bodies to

be meticulously forthright and above-board. Critics are watching them, double-checking their numbers and reading their e-mails. There's no room for fraud, even fraud as relatively minor as Tran's might have been.

CARB needs to step away from any research that Tran conducted, compiled or reviewed and start over with a clean slate: Researchers beyond reproach weighing peer-reviewed studies beyond reproach.

Only then should the CARB board be given the opportunity to decide if these regulations, or regs like them, are appropriate. CARB's work is too important for the agency to abide the taint of anything remotely resembling fraud.

http://www.cunninghamreport.com/news_item.php?id=1130

The Cunningham Report December 7, 2009

CARB Struggling With Aftermath Of Phony PHD Coverup

12/07/2009

Almost a year after passage of the California Air Resources Board clean truck regulations, the agency is struggling with the fallout resulting from the misconduct of one of its staff members, the coverup of that conduct, and what it implies for the integrity and culture of the CARB regulatory process. As a result of the mess, Board member John Telles has called for CARB to set aside the truck rule it adopted on Dec. 11, 2008 until the agency can take a closer look at its processes.

At issue is a report used to help justify the need for CARB's tough and costly clean truck strategy. That 2008 report - "Methodology for Estimating Premature Death Associated with Exposure to Fine Airborne Particulate Matter in California" - was authored by Hien T. Tran, the project coordinator.

It turns out that Tran had lied about his credentials when he applied for promotion to Air Resources Supervisor in 2007. He claimed to have a doctorate degree from UC Davis. In fact, he had a master degree from Davis, but the only doctorate degree was from Thornhill University, an online diploma mill that sold him a Magna cum Laude PhD for \$1,000.

To add fuel to the fire, senior CARB officials and some - but not all - of the board members knew about Tran's phony credential before the board voted on the clean truck regulations, yet nobody bothered to inform the other board members or the public, he said.

Dr. Stanley Young of the National Institute of Statistical Science wrote Gov. Arnold Schwarzenegger in July 2009, pointing out that none of the folks who prepared the report on the statistical health impacts of diesel particulate was a professional statistician.

-- The Cunningham Report

<http://www.todaystrucking.com/news.cfm?intDocID=22945>

Today's Trucking December 7, 2009

Truckers want CARB rule suspended in light of cover-up

12/07/2009

SACRAMENTO -- There are calls to suspend California's statewide Truck and Bus Rule because of allegations that research behind the legislation was tainted.

Members of the California Air Resources Board (CARB) have taken to the media to request that the board suspend the truck rule, which would require exhaust filter retrofits and engine upgrades starting in 2011 and the replacement of pre-2010 model engines between 2012 to 2022.

CARB members Ron Roberts and Dr. John Telles allege that CARB had tried to cover up that the lead scientist and coordinator of the research used to justify the new emissions rules, had lied about holding a Ph.D. in statistics.

Hien T. Tran's Ph.D. was the mail-order version, according to local media reports, and senior CARB officials were aware that his falsified credentials before voting on the truck retrofit legislation.

Telles, a cardiologist on the board, wrote a letter to the air board's chief counsel, saying CARB staff failed to meet its "ethical if not legal obligation" to provide all board members with pertinent information before a vote on a state regulation.

Like Telles, Roberts is generally in favor of the rule, but admonished how it was achieved. He penned a 750-word quest commentary in the San Diego Union-Tribune last week, alerting the public to the cover-up.

"Today, air board staff defend the Tran report as one subsequently validated by 'rigorous internal as well as external review,'" Roberts said in column. "Therefore, no need to revisit the vote, they say. Some board members have gone so far as to declare, 'There was no abuse, manipulation or dishonesty of any type.'"

Said Julie Sauls, spokeswoman for the California Trucking Association. "As stakeholders in the process, you can imagine the frustration and disappointment with the lack of transparency."

Sauls says the rule, which would cost industry \$4.5 billion, needs a more robust financing mechanism, adding that the board's research lacked a true economic impact analysis.

-- with files from Truckinginfo.com

<http://www.thetrucker.com/News/Stories/2009/12/8/CARBunderfireforcoveringupscandalinvolvingdieselregvote.aspx>

The Trucker December 8, 2009

CARB under fire for covering up scandal involving diesel reg vote



According to the San Diego Union-Tribune, Hien T. Tran had a “mail order Ph.D. sent to him from a university based at a mailbox at a UPS office in New York City” and that senior board officials knew this before the Dec. 12 vote last year on stringent bus and truck diesel emissions.

The Trucker Staff

12/8/2009

The California Air Resources Board and specifically CARB’s rules governing diesel emissions approved on Dec. 12 last year have come under fire off and on, but some of the most noteworthy criticism is from Dr. John G. Telles, an air board appointee who said recently that the board’s staff failed to meet its “ethical if not legal obligation” to provide all board members with pertinent data before they voted on the emissions regulation.

He was referring to allegations that the lead scientist and coordinator of a study used to justify the stringent diesel rules had lied about holding a Ph.D. in statistics. According to the *San Diego Union-Tribune*, Hien T. Tran had a “mail order Ph.D. sent to him from a university based at a mailbox at a UPS office in New York City” and that senior board officials knew this before the Dec. 12 vote last year.

Telles wrote a letter to CARB’s chief counsel, Ellen Peters, critical of the board staff. Telles also said he hadn’t heard of the deception until a Sept. 24 air board meeting during which it was raised during public testimony about the dire financial impact the diesel rules will have on businesses whose trucks and off-road vehicles must be scrapped or retrofitted to comply.

In response to the issue the American Trucking Associations said today that “like many others,” it has “serious concerns about the fact that CARB staff and certain board members withheld information about falsified credentials. The fact this was

done on the eve of CARB adopting their controversial Truck and Bus regulation brings into question not only the credibility of the agency but also the procedural aspects which were used to adopt the regulation.

"This controversy should not be swept under the rug. Action is needed to restore the public trust," ATA said. "Whether it's a suspension of the regulation, as some [CARB] board members have suggested, or other actions, the agency needs to be held accountable. The trucking industry is committed to improving air quality with practical and effective means, but open and honest discussion is the key to both public trust and environmental progress."

Reportedly, Tran was demoted over the incident but not fired. Telles went so far as to say it "appears to be a violation of procedure with both ethical and perhaps legal implications" and that "how we handle this procedure will reflect on the future credibility of CARB."

The Trucker staff can be contacted to comment on this article at [**editor@thetrucker.com**](mailto:editor@thetrucker.com).

Follow *The Trucker* on Twitter at [**www.twitter.com/truckertalk**](https://www.twitter.com/truckertalk).

<http://www.signonsandiego.com/news/2009/dec/08/air-boards-test/>

San Diego Union-Tribune December 8, 2009

UNION-TRIBUNE EDITORIAL

The air board's test

Will zealotry or common sense win the day?

TUESDAY, DECEMBER 8, 2009 AT 12:01 A.M.

The California Air Resources Board faces a moment of truth tomorrow. Are board members subservient to their zealous staff? Or are they public servants with common sense?

At issue is a proposal by two board members – John Telles, a Fresno cardiologist, and Ron Roberts, a San Diego County supervisor – to suspend and redo costly, sweeping new rules for diesel vehicle emissions adopted a year ago.

As reported by this editorial page shortly after that vote, the study justifying the rules was crafted by an air board researcher named Hien Tran who lied about his academic credentials. Telles and Roberts are irate that Tran's deception was never revealed to the full board until this fall.

"Imposing such expensive and groundbreaking regulation requires securing the full faith and confidence of the public. Unfortunately, actions by air board members and staff have shaken that trust," Roberts wrote last week in a Union-Tribune commentary.

We agree. Air board Chairwoman Mary Nichols' refusal to disclose Tran's dishonesty before the board vote last December and her subsequent cover-up are shameful. But her agency's problems go far beyond Tran's academic fraud. The willingness to hide this fraud rather than delay the adoption of the diesel rules reflects the determination of Nichols and her staff to go down in history as global pacesetters in environmental regulation no matter what.

This is reflected in Tran's study itself, which fails to acknowledge contrary research on the health risks of diesel emissions. This zealotry is also reflected in the air board's far more important work on AB 32, the state's landmark 2006 anti-global warming bill that forces a shift to cleaner but much costlier forms of energy.

The "scoping plan" detailing the law's economic effects – like Tran's diesel emissions study – ignored any evidence that got in the way of the narrative touted by Nichols and the air board staff. This led to a scathing critique from Harvard's Robert Stavins, arguably the world's leading environmental economist: "The economic analysis is terribly deficient in critical ways and should not be used by the state government or the public for the purpose of assessing the likely costs of CARB's plans. I say this with some sadness, because I was hopeful that CARB would produce sensible policy proposals analyzed with sound scientific and economic analysis."

Stavins wouldn't have been hopeful if he were familiar with the air board staff.

Telles and Roberts deserve praise for finally objecting to being manipulated by Nichols and her staff. Starting with tomorrow's vote on the diesel rules, their air board colleagues need to object as well.

<http://www.prnewswire.com/news-releases/new-data-assembled-by-california-officials-shows-construction-industry-below-state-diesel-emissions-target-levels-for-years-to-come-78810227.html>

PR Newswire December 8, 2009

New Data Assembled by California Officials Shows Construction Industry Below State Diesel Emissions Target Levels for Years to Come

California Air Resources Board Inventory Shows Need to Rethink New "Retrofit" Requirements as Industry, Economy Combine to Cut Current and Forecast Emissions

ARLINGTON, Va., Dec. 8 /PRNewswire-USNewswire/ -- Contractors and other operators of off-road diesel equipment will exceed ambitious new emissions targets set by California officials according to new state figures released today by the Associated General Contractors of America. New data from the California Air Resources Board indicates there is no need to impose costly new "diesel retrofit" rules forcing contractors to purchase new equipment before 2014, the association noted.

"Builders and contractors won't have to retrofit, repower or replace a single piece of functional, modern and paid-for construction equipment to meet the state's emissions targets for years to come," said Mike Kennedy, chief counsel for the association. "The state's contractors, with help from the economy, are far more effective at cutting emissions than state officials ever anticipated."

The new data, which was provided to the association by the air resources board, was compiled as part of an exhaustive inventory conducted this year of construction equipment currently in use statewide. The new inventory found, for example, that the Board's original 2000 estimate overstated the levels of nitrogen oxide and particulate matter emissions from the state's off-road diesel engines in 2009 by close to 40 percent.

Based on those erroneous estimates, air resources board officials expected off-road diesel equipment operators would need to reduce nitrogen oxide emissions by 5,200 tons in 2010 and 182,000 tons by 2025. They also expected equipment operators to reduce particulate matter emissions by 910 tons in 2010 and 29,530 tons by 2025.

The new inventory data shows, however, operators of off-road diesel equipment will be 58,400 tons below the state's target levels for nitrogen oxide from 2010 and 173,000 tons below the state's target by 2025. Meanwhile, equipment operators will be 2,480 tons below particulate matter target levels in 2010 and will stay below target levels in 2011, 2012 and 2013.

After that, the industry will need to make far smaller cuts than originally estimated, the association added. For example, in 2025 operators will only need to cut 11,560 tons of particulate matter, less than half as deep a cut as previously estimated.

"The implementation of this regulation is coming at a time when the contractors can ill afford to fork out millions of dollars to retrofit a fleet of vehicles that has an expected life span of over 30 years," said Thomas Holsman, chief executive officer of the Associated General Contractors of California. "Considering that CARB's goals have already been met, enforcing the regulation at a

time when the majority of these vehicles have already been shut down due to the economy will only exasperate the ability to create jobs and that's what this state needs right now."

The association noted state officials failed to anticipate the significant impact of the economic downturn on the construction industry. When state officials wrote their rule, for example, they estimated construction employment would grow by 8,000 jobs a year between 2006 and 2014. They also estimated that construction valuation would increase by \$10 billion between 2007 and 2009.

In reality, the state has actually lost 330,000 construction jobs since 2006, a 35 percent decline, while real GDP originating from California's construction industry has dropped by \$13 billion. In addition, a new analysis conducted by the Transportation Construction Coalition found that 68 percent of California's highway and transit builders expect the state's construction market to decline in 2010.

The analysis also concluded that over 44 percent of the state's transportation construction companies plan to lay off year-round employees next year. Significant for diesel emissions, less than one-third of the state's transportation construction companies say they expect to be able to purchase new construction equipment next year.

"Looking at the economic picture, it is clear the state's construction industry has little capacity to absorb the cost of replacing otherwise fully functional equipment," said Ken Simonson, the trade association's chief economist. "Just because the economy is doing CARB's work in cutting diesel emissions doesn't mean the state needs to do the economy's work in cutting construction employment."

In light of the new inventory data and the bleak economic forecast for the state's construction industry, association officials urged the members of the California Air Resources Board to reconsider their plan to require costly retrofits and equipment replacements next year.

"This new data raises an important question, will California's Air Resources Board let the data drive the final decision, or simply drive the data to conform to its earlier conclusions," the association's Mike Kennedy said. "The answer should be clear, state officials must rethink their current approach to regulating off-road diesel emissions."

[Click here to view data from the new state off-road diesel equipment inventory.](#)

[Click here to view the results of the Transportation Construction Coalition Survey for California.](#)

[Click here to view the remarks from the media conference call.](#)

[Click here to view AGC's letter to the California Air Resources Board.](#)

CONTACT: Brian Turmail of Associated General Contractors of America, +1-703-837-5310; turmailb@agc.org

SOURCE Associated General Contractors of America

http://pr-canada.net/index.php?option=com_content&task=view&id=149686&Itemid=65

PR-CANADA.net December 8, 2009

NATIONAL GROUP TO RELEASE NEW DIESEL EMISSIONS, HIRING AND BUSINESS FORECAST FOR CALIFORNIA'S CONSTR

Posted by marin2008

Tuesday, 08 December 2009

On Tuesday, December 8 at 1:30 p.m. (PST), the Associated General Contractors of America will release a new forecast of diesel emissions, hiring plans and business opportunities for California construction companies during a media conference call. The analysis, based on a state survey of construction equipment use as well as a survey of the state's transportation construction firms, will show how proposed state "diesel retrofit" regulations are no longer needed to meet state emissions targets.

The association's top regulatory official, Mike Kennedy, and chief economist, Ken Simonson, will outline the results of the analysis and explain why state officials no longer need to force contractors to replace existing construction equipment. Tom Foss, president of Brea construction firm Griffith Company; Mike Shaw of El Cajon-based Perry & Shaw Construction; and Tom Holsman, chief executive officer of the AGC of California, will also be on the call to answer questions about the forecast and their own experiences.

WHO: Mike Kennedy, Chief Counsel, Associated General Contractors of America, Arlington, VA

Ken Simonson, Chief Economist, Associated General Contractors of America, Arlington, VA

Tom Foss, President, Griffith Company, Brea, CA

Mike Shaw, President, Perry & Shaw Inc., El Cajon, CA

Tom Holsman, CEO, AGC of California, Sacramento, CA

WHAT: Release of New Diesel Emissions, Hiring and Business Forecast for California Construction Companies, Outline of How Changing Business Conditions Rendering Proposed State "Diesel Retrofit" Rule Moot

<http://www.signonsandiego.com/news/2009/dec/08/air-boards-test/>

San Diego Union-Tribune December 8, 2009

The air board's test

Will zealotry or common sense win the day?

TUESDAY, DECEMBER 8, 2009 AT 12:01 A.M.

The California Air Resources Board faces a moment of truth tomorrow. Are board members subservient to their zealous staff? Or are they public servants with common sense?

At issue is a proposal by two board members – John Telles, a Fresno cardiologist, and Ron Roberts, a San Diego County supervisor – to suspend and redo costly, sweeping new rules for diesel vehicle emissions adopted a year ago.

As reported by this editorial page shortly after that vote, the study justifying the rules was crafted by an air board researcher named Hien Tran who lied about his academic credentials. Telles and Roberts are irate that Tran's deception was never revealed to the full board until this fall.

"Imposing such expensive and groundbreaking regulation requires securing the full faith and confidence of the public. Unfortunately, actions by air board members and staff have shaken that trust," Roberts wrote last week in a Union-Tribune commentary.

We agree. Air board Chairwoman Mary Nichols' refusal to disclose Tran's dishonesty before the board vote last December and her subsequent cover-up are shameful. But her agency's problems go far beyond Tran's academic fraud. The willingness to hide this fraud rather than delay the adoption of the diesel rules reflects the determination of Nichols and her staff to go down in history as global pacesetters in environmental regulation no matter what.

This is reflected in Tran's study itself, which fails to acknowledge contrary research on the health risks of diesel emissions. This zealotry is also reflected in the air board's far more important work on AB 32, the state's landmark 2006 anti-global warming bill that forces a shift to cleaner but much costlier forms of energy.

The "scoping plan" detailing the law's economic effects – like Tran's diesel emissions study – ignored any evidence that got in the way of the narrative touted by Nichols and the air board staff. This led to a scathing critique from Harvard's Robert Stavins, arguably the world's leading environmental economist: "The economic analysis is terribly deficient in critical ways and should not be used by the state government or the public for the purpose of assessing the likely costs of CARB's plans. I say this with some sadness, because I was hopeful that CARB would produce sensible policy proposals analyzed with sound scientific and economic analysis."

Stavins wouldn't have been hopeful if he were familiar with the air board staff.

Telles and Roberts deserve praise for finally objecting to being manipulated by Nichols and her staff. Starting with tomorrow's vote on the diesel rules, their air board colleagues need to object as well.

The Herald December 8, 2009

Editorial: Deception sets back new diesel rules

THE HERALD'S VIEW

The Monterey County Herald

Updated: 12/08/2009 08:55:24 AM PST

Whether and when California should impose sweeping new rules on diesel emissions is a political and scientific issue that has been made more difficult by a blatant deception, a state statistician's lie about having received a doctorate in statistics from the University of California-Davis.

Discovery that Hien Tran actually received his Ph.D. from a storefront diploma mill probably will postpone enactment of the new diesel rules, which is unfortunate. While his lie pokes large holes in his conclusion that diesel emissions are causing 1,000 deaths annually, there is little dispute over the fact that diesel soot is a significant pollutant.

The trucking industry, facing more than \$5 billion in retrofit requirements, has logically used belated news of Tran's transgression to try to quash or delay the changes. The postponement could be ordered as soon as Wednesday, the next scheduled meeting of Tran's employer, the California Air Resources Board.

What is equally unfortunate is what this whole affair says about the Air Resources Board, which discovered the falsification fully a year ago but kept it to itself and allowed Tran to volunteer for a demotion while remaining on the state payroll.

If everyone who fudged a little on a résumé were to be fired, a lot of jobs would open up. But Tran didn't just stretch his extracurricular activities or his grade point average. He claimed a doctorate in statistics from a prestigious school even though he actually bought a worthless degree and went on to produce a critically important statistical work on a critically important topic.

There are some who are calling this matter California's "Climategate," a reference to the controversy over the discovery of manipulation by some British global warming researchers. But while the hacked e-mails have given encouragement to global warming's deniers, they do little to undermine the piles of studies elsewhere demonstrating how greenhouse gases are contributing to climate change. Tran's faked-up résumé actually has a more measurable impact.

It remains to be seen whether Tran manipulated his findings or if he was merely unqualified. It probably is telling that his lie was discovered, so long ago, by a true statistician who researched his background because of holes in his research.

But either way, if it is legal to fire Tran now, the Air Resources Board should do so, and those who were responsible for keeping the transgression hidden for so long also should start looking for other positions.

http://www.agc.org/cs/news_media/press_room/press_release?pressrelease.id=465

The Associated General Contractors of America December 8,
2009



CONSTRUCTION NEWS

THE ASSOCIATED GENERAL CONTRACTORS OF AMERICA
2300 Wilson Blvd., Suite 400 • Arlington, VA 22201

Title: NEW DATA ASSEMBLED BY CALIFORNIA OFFICIALS SHOWS CONSTRUCTION INDUSTRY BELOW STATE DIESEL EMISSIONS TARGET LEVELS FOR YEARS TO COME

Date: December 8, 2009

California Air Resources Board Inventory Shows Need to Rethink New "Retrofit" Requirements as Industry, Economy Combine to Cut Current and Forecast Emissions
Contractors and other operators of off-road diesel equipment will exceed ambitious new emissions targets set by California officials according to new state figures released today by the Associated General Contractors of America. New data from the California Air Resources Board indicates there is no need to impose costly new "diesel retrofit" rules forcing contractors to purchase new equipment before 2014, the association noted.

"Builders and contractors won't have to retrofit, repower or replace a single piece of functional, modern and paid-for construction equipment to meet the state's emissions targets for years to come," said Mike Kennedy, chief counsel for the association. "The state's contractors, with help from the economy, are far more effective at cutting emissions than state officials ever anticipated."

The new data, which was provided to the association by the air resources board, was compiled as part of an exhaustive inventory conducted this year of construction equipment currently in use statewide. The new inventory found, for example, that the Board's original 2000 estimate overstated the levels of nitrogen oxide and particulate matter emissions from the state's off-road diesel engines in 2009 by close to 40 percent.

Based on those erroneous estimates, air resources board officials expected off-road diesel equipment operators would need to reduce nitrogen oxide emissions by 5,200 tons in 2010 and 182,000 tons by 2025. They also expected equipment operators to reduce particulate matter emissions by 910 tons in 2010 and 29,530 tons by 2025.

The new inventory data shows, however, operators of off-road diesel equipment will be 58,400 tons below the state's target levels for nitrogen oxide from 2010 and 173,000 tons below the state's target by 2025. Meanwhile, equipment operators will be 2,480 tons below particulate matter target levels in 2010 and will stay below target levels in 2011, 2012 and 2013.

After that, the industry will need to make far smaller cuts than originally estimated, the association added. For example, in 2025 operators will only need to cut 11,560 tons of particulate matter, less than half as deep a cut as previously estimated.

"The implementation of this regulation is coming at a time when the contractors can ill afford to fork out millions of dollars to retrofit a fleet of vehicles that has an expected life span of over 30 years," said Thomas Holsman, chief executive officer of the Associated General Contractors of California. "Considering that CARB's goals have already been met, enforcing the regulation at a time when the majority of these vehicles have already been shut down due to the economy will only exasperate the ability to create jobs and that's what this state needs right now."

The association noted state officials failed to anticipate the significant impact of the economic downturn on the construction industry. When state officials wrote their rule, for example, they estimated construction employment would grow by 8,000 jobs a year between 2006 and 2014. They also estimated that construction valuation would increase by \$10 billion between 2007 and 2009.

In reality, the state has actually lost 330,000 construction jobs since 2006, a 35 percent decline, while real GDP originating from California's construction industry has dropped by \$13 billion. In addition, a new analysis conducted by the Transportation Construction Coalition found that 68 percent of California's highway and transit builders expect the state's construction market to decline in 2010.

The analysis also concluded that over 44 percent of the state's transportation construction companies plan to lay off year-round employees next year. Significant for diesel emissions, less than one-third of the state's transportation construction companies say they expect to be able to purchase new construction equipment next year.

"Looking at the economic picture, it is clear the state's construction industry has little capacity to absorb the cost of replacing otherwise fully functional equipment," said Ken Simonson, the trade association's chief economist. "Just because the economy is doing CARB's work in cutting diesel emissions doesn't mean the state needs to do the economy's work in cutting construction employment."

In light of the new inventory data and the bleak economic forecast for the state's construction industry, association officials urged the members of the California Air Resources Board to reconsider their plan to require costly retrofits and equipment replacements next year.

"This new data raises an important question, will California's Air Resources Board let the data drive the final decision, or simply drive the data to conform to its earlier conclusions," the association's Mike Kennedy said. "The answer should be clear, state officials must rethink their current approach to regulating off-road diesel emissions."

<http://www.fresnobee.com/state/story/1742277.html>

The Fresno Bee December 9, 2009

Truckers ask Calif. to delay diesel-emission rules

By SAMANTHA YOUNG (AP) – Dec 9, 2009

SACRAMENTO, Calif. — Citing the poor economy, the trucking industry is asking California air regulators to delay the nation's toughest rules to reduce diesel emissions.

The California Air Resources Board was meeting Wednesday to review whether trucking companies should be given more time to replace their fleets.

Board scientists acknowledged that diesel emissions are 20 percent lower this year than what they originally estimated, a result of many trucks sitting idle amid the recession.

The diesel rules were passed in 2008 and are scheduled to take effect in 2011. Nearly a million vehicles must be replaced or retrofitted with smog traps, filters or cleaner-burning technology.

The standards are projected to cost companies an estimated \$4.5 billion over the next 15 years.

Copyright © 2009 The Associated Press. All rights reserved.

<http://www.bakersfield.com/news/columnist/henry/x211509579/Air-board-to-revisit-rule-after-controversy>

The Bakersfield Californian December 9, 2009

Air board to revisit rule after controversy

The Bakersfield Californian | Wednesday, Dec 09 2009 09:53 PM

SACRAMENTO -- So after many months and much public berating (at least by me and one other lonely journalist in San Diego), the California Air Resources Board voted Wednesday night to redo a report by a researcher who lied about his credentials and used shoddy methods to justify creation of stringent diesel emission rules that could all but cripple the trucking industry.

They did not, however, suspend the so-called "truck rule" while the report by CARB researcher Hien Tran is redone. I and board member Dr. John Telles, who made the motion to do just that, felt suspending the rule would have told the public -- and especially the business owners whose trust they absolutely must have -- that the board was interested in governing in an honest, transparent manner.

Instead, after hearing more than 70 speakers talk about how their businesses have been devastated in the last few years, the board opted to have staff review options for how to implement the rule considering the terrible economic conditions and bring that report back in April for a full regulatory hearing.

In the meantime, CARB just won't enforce the truck rule, which was set to go into effect in 2011.

Same result, but without the bold acknowledgement that CARB board members recognize they actually are public servants.

If you're keeping score that's:

- * One yay for the board for finally realizing that their credibility was in the toilet and the least they could do was not flush it away entirely.

- * One major eye roll for suspending the rule in a mealy-mouth way -- without officially suspending the rule.

- * One reserved golf clap for directing staff to re-examine how the economy has reduced emissions already, whether the rule is reasonable considering credit constraints and whether the one-size-fits-all approach is workable considering the wide array of trucking operations among other issues.

Board Chair Mary Nichols also vowed to have a kind of "science fair" in February that will look at the information on PM2.5 and its medical effects. Many, many reports have been written on that issue and, she said, the literature clearly shows the fatal effects of exposure to PM2.5.

Even so, she allowed, that opposition scientists and "skeptics" would be welcome and "listened to."

That's great. But unless she's going to require authors of studies showing such deadly links to open their data for independent inspection -- as they have thus far refused to do -- I'm not sure us "deniers," as I've been called -- will think any differently.

As far as the Tran report goes, it's unclear exactly how and who will rework the report, which looked at the supposedly lethal effects of PM2.5, tiny bits of soot found in diesel exhaust. But it will not be done by CARB staff researchers, board member John Balmes assured me.

Balmes, like Nichols, had been apprised of Tran's fraud before the board voted on the truck rule last December. But he and Nichols and a number of senior CARB staffers kept that information from the full board, which infuriated Telles, a Fresno cardiologist who spent two months backtracking who knew what and when after he was reminded of Tran's fraud following the board's September meeting.

I had actually brought it to his attention at his Senate confirmation hearing. At the time, he asked Executive Officer James Goldstene about it and was told it was just a personnel issue.

At the September meeting, several members of the public mentioned Tran's indiscretion and, Telles said, "At the time I was pretty hot about it." But he set it on the back burner until yours truly called and bugged him about it again.

That started his quest for more information. And when he discovered that CARB staffers knew of Tran's fraud and apparently relayed it by e-mail to a select group of board members shortly before the vote and then kept it under wraps from the public, he was really torqued.

"I got that e-mail and I just couldn't sleep that night," he told me. "I'm a firm believer that the biggest issue for government is that you should do the right thing. And this (not informing the board and public of Tran's lies) was absolutely the wrong thing to do."

Well, there's right and wrong and then there's politics. As evidenced by Nichols, who up until her opening remarks at the meeting Wednesday seemed dead set on sticking to her obtuse position that the Tran report didn't matter and was an "annoying distraction," as she wrote to Telles in an e-mail.

I asked what changed her mind. She told me that once the press begins questioning government's credibility, as I and eventually others did, you've got to do something to restore it.

Or maybe she had a chat with the governor Tuesday, who, she conceded, made it clear he wanted to stick to the federal deadline of reducing NOx and PM2.5 emissions by 2014 (in other words, don't throw out the truck rule entirely). But the Tran issue wasn't going away without some kind of concessions, and he wanted her to make some.

Oh well, this IS politics after all.

Opinions expressed in this column are those of Lois Henry, not The Bakersfield Californian. Her column appears Wednesdays and Sundays. Comment at people.bakersfield.com/home/Blog/noholdsbarred, call her at 395-7373 or e-mail lhenry@bakersfield.com.

<http://www.sfgate.com/cgi-bin/article.cgi?file=/c/a/2009/12/09/MNQR1B123E.DTL>

The San Francisco Chronicle December 9, 2009

Researcher's lie could threaten diesel rules

Wyatt Buchanan, Chronicle Sacramento Bureau

WEDNESDAY, DECEMBER 9, 2009 (12-09) 04:00 PST SACRAMENTO - --

A sweeping California regulation aimed at cutting hazardous pollution from diesel engine exhaust could be derailed after a key state researcher on the project was caught in a lie about his academic credentials.

The California Air Resources Board is scheduled to meet today to discuss whether to delay the implementation of the regulation because of the weak economy, which some experts claim has led to a drop in diesel emissions. But that discussion has been overshadowed by revelations about the researcher's trumped-up resume.

Two of the 11 air board members have asked that the anti-pollution rules be suspended because they were partially based on a report by Hien Tran that found particulates in diesel emissions account for 3,500 premature deaths a year in California. Tran falsely claimed he had a doctorate in statistics from UC Davis.

"I've been on the air board 14 years and I've never seen anything approaching this," said Ron Roberts, who also is a San Diego County supervisor. He added that the air board should do everything it can to assure the public "the science is proper to arrive at legitimate decisions."

Regulation's effect

The regulation, unanimously approved nearly a year ago, requires big rig owners to retrofit or replace trucks and buses to cut diesel particulates spewed into the air. The regulation would begin to take effect next year and ramp up over the next several years.

The rules, which also apply to out-of-state vehicles if they are driven in California, affect 1 million vehicles. It will cost the trucking industry \$5.5 billion, according to air regulators.

Tran, whose estimate of 3,500 deaths was higher than previous estimates, does have a doctorate in statistics, but he obtained it from Thornhill University, a distance learning school. He has a master's degree in the subject from UC Davis.

Tran, who has worked at the air board for 11 years, was demoted and his salary was cut by \$1,066 per month to \$7,899 per month. He was not fired.

Whole board not told

A few days before the board voted on the regulation, a researcher from UCLA notified the board staff that Tran did not have the degree he claimed, said air board spokesman Leo Kay. Some, but not all, members of the air board were told about the falsification, Kay said.

Kay said it was a mistake that the full board was not notified.

"Our feeling is a falsely claimed Ph.D. is not grounds to reopen this rule. But we do feel that if there are significant data out there that suggest the economy has changed the emissions picture from what was anticipated when we passed the rule, that's a more legitimate issue we need to look at," Kay said.

Credential casts doubt

Yet Dr. John Telles of Fresno, an air board member who was not informed of the false credentials and looked into the issue on his own, noted in a letter to an agency attorney that the air board told the researcher "your dishonesty regarding your education has called into question the validity of the report."

Both Telles and Roberts said they think the science likely is solid, although Roberts said the false credential casts doubt on the integrity of the entire board.

The air board cannot suspend the regulation at this meeting due to public notice requirements, but it could in the future.

Many business owners argue that the rules should be delayed because a slowdown in economic activity means fewer trucks are on the roads.

The air board also will listen to comments on the need to implement regulations passed in 2007 affecting off-road diesel emissions, which come largely from construction machinery.

Mike Kennedy, chief counsel for the Association of General Contractors of America, said that organization has calculated diesel emissions with the air board's original model and found a significant decline due to the dearth of construction in California.

"California construction contractors have reduced emissions from construction equipment far faster than the board estimated," Kennedy said.

Some scientific and public health organizations say that while the false-credential issue is troubling, it does not undermine myriad other studies showing health impacts from diesel emissions.

"There's not an issue of whether it's harming people," said Don Anair, a senior analyst with the Union of Concerned Scientists in San Francisco.

E-mail Wyatt Buchanan at wbuchanan@sfchronicle.com. This article appeared on page A - 1 of the San Francisco Chronicle

<http://www.news10.net/news/local/story.aspx?storyid=71607&catid=2>

ABC Channel 10 News December 9, 2009

State Board: Diesel Emissions Report Author Lied About Credentials

December 09, 2009

SACRAMENTO, CA -- The California Air Resources board voted Wednesday for the creation of a new diesel emissions report following the disclosure that the report's original author lied about his credentials.

After a nearly 10-hour meeting, board members made the decision shortly before 7 p.m. Wednesday.

Hien Tran, the statistician who wrote much of the report on the effects of diesel emissions, lied about having a [doctorate](#) from UC Davis. Instead, [Tran holds a PhD from an online university](#).

At the meeting, board chairwoman Mary Nichols admitted to knowing about Tran's credentials before the regulations went into effect.

"The fact is this was a mistake on my part," she said. "I should have shared this information with my fellow board members as a matter of course."

However, Nichols said that Tran's academic history shouldn't matter because the report was scientific and true.

Other board members expressed complete disagreement.

"To me, that means the report is not acceptable," said Dr. John Telles. "Basically, this is a report written by a fraudulent person."

"The actions of Mr. Tran, of members of this board and members of this staff have done a disservice and have injured public trust," said Ron Roberts.

Tran was suspended from April until June and was demoted.

Tran's [12-page adverse action notice](#) stated Tran's "dishonesty has opened the door to unnecessary criticism due to the impact the rules and regulations have on a variety of industries." The report's findings have considerable impact in industries like [trucking](#) and construction.

Truckers from the port of Oakland led a convoy to Sacramento Wednesday morning, protesting a new law based on Tran's report. Under the new regulation, 40,000 of the state's oldest and dirtiest trucks will be forced to reduce diesel emissions in the next few months.

Another 1 million trucks must comply by 2011.

While trucking companies admit that the weakened economy is leaving many trucks sitting idle, the industry is asking the California Air Resources Board to delay the law.

"It makes no sense to saddle the trucking industry with regulations that absolutely assures the collapse," said Richard Lee of Manley Trucking.

So far, the plea from the trucking industry has not been enough to detour the first phase of the new law. If the state fails to reach air quality standards mandated by the EPA by 2014, it could lose billions of dollars in federal highway funding.

Besides trucks, the board is looking at off-road emissions, mainly construction equipment, another move that will cost companies millions to meet new requirements.

At a Teichert Construction project in Yuba County, 60 pieces of equipment were hard at work Wednesday; equipment that has or will be retrofitted to meet the new requirements.

"We've spent well over \$100 million," said Steve Mitchell of Teichert.

"We haven't hit bottom yet," said John Hakel of the California Association of General Contractors. "The state may be in a recession. We are in a depression."

Hakel, along with hundreds of others, came to Wednesday's CARB meeting to voice opposition.

"(Contractors have to spend) millions upon millions," said Hakel. "It's staggering how much they're going to have to do in the compressed time frame to be in compliance."

"Take a step back," said Mitchell. "Look at the implementation schedule for this, and see if we can't do something that more reflects today's economic environment."

By Nick Monacelli, nickmonacelli@news10.net

http://www.recordnet.com/apps/pbcs.dll/article?AID=/20091209/A_NEWS/912099985#STS=g3e2qpbw.qkq

Recordnet.com December 9, 2009

Air regulators may slow requirement for trucks to reduce emissions

By ***The Record***

December 09, 2009 12:28 PM

SACRAMENTO — Air quality regulators today are weighing whether to put the brakes on a \$5.5 billion rule requiring the upgrade or replacement of big-rig engines to improve air quality in the San Joaquin Valley and in Southern California.

Truckers say the poor economy already threatens to put them out of business. They say they can't afford to upgrade their fleets as required by the California Air Resources Board.

"The fact that this board is considering adopting these regulations without fully assessing the economic impact is simply appalling to me," Assemblyman Bill Berryhill, R-Ceres, told the board this morning.

Even without the rule, pollution from trucks is 20 percent lower than expected this year since fewer goods are being shipped throughout the state. The air is already cleaner.

But the California Air Resources Board says that while it may be able to slow down implementation of the plan, it must eventually continue with the rule in order to meet federal mandates on air quality in the Valley.

"What we are not going to do is to back away or back down from the need to make progress on reducing the single most serious cause of health harming pollutants in this state," said Board Chairwoman Mary Nichols.

Read Thursday's Record for more on this story by staff writer Alex Breitler.

<http://www.signonsandiego.com/news/2009/dec/09/air-board-lies-fuel-global-warming-doubts/>

San Diego Union-Tribune December 9, 2009

Air board lies fuel global warming doubts

By [Chris Reed](#),

WEDNESDAY, DECEMBER 9, 2009 AT 10:14 A.M.

When I blogged recently that the Climategate scandal had moved me from being a believer in man-made global warming to being an agnostic on the topic, I got considerable pushback. A professor wrote to me to note all the evidence that wasn't massaged or hidden by influential scientists at the University of East Anglia, Penn State and the National Center for Atmospheric Research. E-mailers accused me of throwing in my lot with the shrill forces on the right who nuttily insist Barack Obama is a Muslim Manchurian candidate.

Nevertheless, the more I think about this topic, the more I find myself contemplating moving from agnostic to flat-out skeptic. The single biggest reason why? The behavior of the California Air Resources Board, which is held up as an exemplar of smart, principled and resourceful environmentalism.

I've lived in California since 1990. I think the old air board lived up to the hype, helping pave the way for big changes that have made our air cleaner and inspired similar wise rule-making around the nation and the world.

But I've paid close attention to the current version for years, and it's obvious it is driven by a messianic streak a mile wide. Board officials cover up inconvenient scandals that raise doubts about their wisdom and their sanity – not just the Hien Tran academic fraud debacle involving costly, controversial diesel rules but the steps it really and truly took toward banning cars with black paint. On global warming, the air board's honesty about how its plans will affect California has been non-existent. It continues to pretend that forcing the use of costlier energy will somehow prove to be an economic bonanza.

This is not smart, principled and resourceful environmentalism. This is a form of mania, one that's has infected much of the environmental movement (and too many journalists). This mania makes me inclined to doubt its major claims.

This guy makes me even more skeptical.

Imagine you were a scientist who rose to prominence in the 1960s and 1970s by warning that mankind faced an environmental cataclysm by the end of the 20th century because of rapid population growth and enormous pollution. You advocated government-funded sterilization efforts, "de-development of the overdeveloped countries and semi-development of the

underdeveloped countries,” and adoption of policies under which human needs received no higher priority than those of plants and animals in general.

Come 2009, this scientist would appear likely to have been completely discredited, not to continue to rise in prominence. His odd mix of views – erroneous doomsday-prophesizing, contempt for the idea that human beings are more valuable than banana slugs and ferns, and scary authoritarianism on reproductive rights – would mark him as a crank.

Right? Right? Wrong.

The scientist I describe is John P. Holdren, the White House science adviser and the director of the Office of Science and Technology Policy, which is the official “source of scientific and technological analysis and judgment for the president with respect to major policies, plans and programs of the federal government.”

How is this possible? Because the mania I wrote about above has very much reached the White House.

As long as people like Holdren and state air board boss Mary Nichols have power, I find it tough to believe a word the federal and state government say on any environmental issue.

ADDENDUM, 11 A.M.: Here's one more reason I'm skeptical.

Fifty-one weeks ago, I broke the story that the air board's lead scientist on its study justifying the new rules on diesel emissions had lied about his academic credentials. I went on to report that air Nichols kept this from board members and that the lying scientist, who defended himself by offering a mail-order Ph.D. from a “university” associated with a fugitive pedophile, hadn't even been fired.

One columnist (Lois Henry of The Bakersfield Californian) followed up on this incredibly juicy story. But not one single reporter – not until air board member John Telles learned of the cover-up and blasted it last month, making it impossible to ignore.

If you need proof that enviro beat journos are true believers whose work can't be trusted, there it is. They were accomplices to Nichols' cover-up. What other inconvenient truths are they covering up? We may never know.

<http://dailyreporter.com/blog/2009/12/09/california-diesel-rules-generate-debate-in-wisconsin/>

The Daily Reporter December 9, 2009

Wisconsin steers clear of diesel debate (AUDIO)

[By Sean Ryan](#)

Builders nationwide are fighting a proposed California rule requiring reductions in diesel emissions from construction equipment.

Industry groups fear California's rule will set a standard for other states to adopt. But in Wisconsin, regulators are content partnering with, rather than policing, builders.

"It's always good to stay ahead of regulations," said Jessica Lawent, air management specialist for the Wisconsin Department of Natural Resources. "The cleaner we can keep the air through voluntary methods, the less we need mandated regulations."

The California Air Resources Board is proposing a requirement that builders reduce diesel emissions from their heavy equipment. The rules would require builders buy new equipment or retrofit old machines for cleaner emissions.

The California proposal is more stringent than the federal Clean Air Act. The act sets limits on diesel emissions from trucks and buses on highways and requires construction equipment designers and manufacturers meet clean air standards in new machines. The act does not place the onus on contractors to retrofit existing highway equipment.

According to a report Tuesday from the Associated General Contractors of America, builders already spend money to reduce emissions to levels lower than regulators expected. Association leaders and contractors called on the California board to decrease the reduction requirements for equipment and delay the rule enactment from 2012 to 2015.

[LISTEN TO AUDIO FROM THE AGC MEDIA CONFERENCE CALL ON THE CALIFORNIA EMISSIONS RULE](#)

Mike Shaw, president of Perry & Shaw Inc., a grading contractor based in El Cajon, Calif., said he spent \$5.5 million replacing or retrofitting his machines. But, he said, he's getting out of the business if California approves rules that allow for fines of up to \$20,000 per day for emissions violations.

"If they go forward with this," Shaw said, "I'll quit doing this. I'd be a fool."

The Clean Air Act sets the base line for regulating diesel emissions from trucks and heavy equipment. But it also has a provision that lets other states adopt any rule California approves, said Mike Kennedy, AGC chief counsel.

"They can't adopt half of it," he said. "They have to adopt either the entire California rules or none at all."

DNR officials are not drafting or considering diesel emission rules, Lawent said. The Wisconsin DNR and Department of Transportation are instead offering grants to pay for new equipment or retrofits.

Wisconsin's road builders appreciate the approach, said Pat Goss, executive director

<http://fleetowner.com/management/news/carb-promises-revisit-1210/>

Fleet Owner December 10, 2009

CARB promises to revisit diesel retrofit rule

Dec 10, 2009 1:39 PM, By David Cullen, executive editor

Next year the California Air Resources Board (CARB) will consider – emphasis on “consider”-- making limited revisions to its sweeping diesel retrofit rule to “provide truck fleets more flexibility in cleaning up their diesel emissions under the state's Truck and Bus Rule that was adopted in December of last year, in light of the recession's effect on the industry.”

However, CARB unequivocally stated “implementation of the rule will continue to be carried out during this period.” As it now stands, the rule, which will be phased-in, will begin requiring truck owners to install diesel exhaust filters on their rigs by Jan. 1, 2011, with nearly all vehicles to be upgraded by 2014.

The aim of the rule is to lower greenhouse gas emissions and improve fuel economy. To explain why it will consider somehow making the rule more “flexible,” CARB only stated that its staff has “demonstrated that the down economy has reduced the amount of time trucks have operated, thus reducing harmful diesel emissions that would have occurred during normal economic times.”

In a statement released after CARB's board meeting, California Governor Arnold Schwarzenegger threw his support behind at least reconsideration of the rule. "With numerous studies and overwhelming evidence on this topic, it is clear responsible action is needed to improve our air quality and protect the health of all Californians," the governor said. "And, as we move forward with these necessary environmental actions, I am committed to ensuring that our economy is protected. That is why I have directed my Administration to work with the board towards a solution that will help small and mid-size companies meet these important air quality regulations without moving back the final 2014 implementation date. I am confident that Chair Nichols and the board will continue to rely on the science in furthering California's environmental goals and protecting our economy at the same time."

CARB also reacted to the scandal that the principal author of the supporting health study for the rule had presented false credentials. CARB said it has “directed staff to withdraw and redo the health report that carried Hien Tran's name since it was learned last year that he falsely claimed he held a PhD in statistics from UC Davis.” However, CARB said nothing to indicate the “redo” would change the conclusions of the study let alone that it would change any aspect of the rule.

"With today's set of actions, we confidently set out to revalidate the science supporting our rules and set up a process to allow for more flexibility for small businesses in the regulation given the down economy," CARB Chairman Mary D. Nichols said. "We take the employee misconduct very seriously, but it should not affect an extremely important public health measure that has been extensively reviewed throughout the scientific community. We have tightened up our procedures to ensure an incident like this never happens again."

Indeed, CARB also noted in its news release issued on the actions that it “neglected to second a motion by Board Members John Telles, who wanted to repeal the diesel rule after learning of a Tran's misconduct.”

“Nothing CARB did yesterday changes anything about the rule,” Clayton Boyce, vp of public affairs for the American Trucking Assns. (ATA), told FleetOwner. “That will be decided in April. And it is iffy even then that anything will be changed, especially if the economy recovers and the [economic] situation [for fleets] can be seen as improved. So, the board may see no reason to relax the rules then.

“As for the [ordered] redo of the health assessment, I expect the results will remain the same,” he continued. “Some [CARB] members and staffers have indicated they will redo report but it will have the same results.”

Boyce said CARB was “under pressure yesterday for two things—the tainted health report and how far ahead [their rules are] of the economy. By April, there is a good chance board will make no changes, especially with the enforcement window that much closer.”

He added that ATA is hopeful the general public will not perceive CARB's actions as the result of the trucking industry pushing for any delay in implementing the new rule.

<http://www.ttnews.com/articles/lmtbase.aspx?storyid=644>

Transport Topics Newsletters December 10, 2009

CARB May Delay Retrofit Rules

Updated: 12/10/2009

Diesel truck users in California are getting some relief from pending costly diesel emission retrofit regulations thanks, in part, to the recession.

The California Air Resources Board on Wednesday said it is considering delaying rules that require older diesel-powered trucks to begin adding diesel particulate filters to reduce soot emissions by 2011. The agency's staff has until April to come up with new provisions.

The action was taken "in light of the recession's effect on the industry," CARB said in a release. The board passed its rule last December.

Fewer trucks are operating on California's roads than projected, thus reducing total emission levels.

The rule requires truck owners to install diesel exhaust filters on their rigs by Jan. 1, 2011, with nearly all vehicles upgraded by 2014.

Possible scenarios for trucking firms include those with 20 to 50 trucks could be given an extra two years to comply, all companies could be given two more years to retrofit or replace 10 of their vehicles, or all fleets could be given an extra year to comply, the Associated Press reported.

One CARB member made a motion to scrap the entire diesel rule following that revelation, but his motion did not receive

By Light & Medium Truck

<http://centralvalleybusinesstimes.com/stories/001/?ID=13838>

Central Valley Business Times December 10, 2009

Diesel exhaust rule relaxed due to recession

SACRAMENTO

December 10, 2009 12:04am

- **CARB calls for more study**
- **Cites recessionary times' impact on truckers**

Scores of diesel rigs with angry drivers at the wheels rumbled their way around the California Statehouse on Wednesday as the California Air Resources Board decided that now is a good time to avoid enforcing a rule requiring tighter controls on truck exhaust.

Instead, CARB is calling for a new health report and has told its staff to explore regulatory flexibility for small businesses on the diesel truck rule.

The state's "Truck and Bus Rule" was adopted in December of last year.

The delay is due in part to the recession's effect on California's trucking industry, CARB says.

The down economy has reduced the amount of time trucks have operated, thus reducing harmful diesel emissions that would have occurred during normal economic times, the board says.

The board also directed staff to withdraw and redo the health report that carried Hien Tran's name since it was learned last year that he falsely claimed he held a PhD in statistics from UC Davis.

The board rejected a motion by member John Telles, who wanted to repeal the diesel rule after learning of the Tran incident.

"We take the employee misconduct very seriously but it should not affect an extremely important public health measure that has been extensively reviewed throughout the scientific community. We have tightened up our procedures to ensure an incident like this never happens again," says CARB Chairman Mary Nichols.

CARB passed the diesel truck and bus rule last December that requires truck owners to install diesel exhaust filters on their rigs by Jan. 1, 2011, with nearly all vehicles upgraded by 2014. The regulation is estimated to prevent 9,400 premature deaths over its lifetime.

<http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2009/12/10/BAU71B1KL3.DTL>

The San Francisco Chronicle December 10, 2009

State orders new diesel pollution report

Wyatt Buchanan, Chronicle Staff Writer

THURSDAY, DECEMBER 10, 2009

(12-10) 04:00 PST Sacramento --

State researchers must redo a report that concluded 3,500 people prematurely die each year due to diesel pollution - a finding that was used to justify imposing the nation's strictest regulations on diesel engines.

The California Air Resources Board ordered a new report after the employee who wrote it was found to have lied about his academic credentials. That decision was made Wednesday after an air board hearing on the rules, which critics want to delay because of concerns over the cost of retrofitting and replacing the polluting engines.

The head of the air board, Mary Nichols, apologized for not telling all board members about the problem with the report's author, Hien Tran, who claimed he had a doctorate in statistics from UC Davis, when he actually had obtained the degree from an unaccredited distance learning school. Nichols knew about the problem before the board voted on the regulation.

Tran has since been demoted. One air board member asked that the regulations be suspended, but that idea was turned down.

In spite of the controversy over the report, much of the discussion at Wednesday's hearing focused on whether trucking companies could afford to comply with the regulations that start to take effect next year and become more restrictive through 2022. Big rig owners will have to retrofit trucks and buses and eventually replace their engines to cut diesel particulates.

The rules, which also apply to out-of-state vehicles driven in California, affect 1 million vehicles. It will cost the trucking industry \$5.5 billion, according to regulators.

Some trucking industry representatives say overall emissions have substantially dropped because the weak economy means fewer trucks on the road. Air board staffers disagreed, saying their research has found that emission levels are higher than they would be with more trucks running on cleaner engines.

California cannot meet federal air quality mandates without the regulation, the staff found.

Still, the board directed its staff to prepare possible amendments to the regulations, including tying implementation to an economic recovery, increasing credits for on-time or early compliance and pushing back reporting deadlines. The board could approve changes at its April meeting.

Christina Ramorino, who works for her family's Roadstar Trucking company in Hayward, which she said has 50 full-time employees, though it has cut its driving force by 19 percent in the past two years.

"I'm 26 years old, starting my career, and concerned these regulations could very well put us out of business," Ramorino said.

Her father, Robert Ramorino, said the company could afford to comply - if it cut all medical and dental benefits for its employees.

"I'm not willing to make that trade-off," he said.

But environmental and health advocates pushed to keep the regulations.

Bonnie Holmes-Gen, senior policy director for the American Lung Association of California, told board members about a woman she knows who has asthma.

"She said, 'There are retrofit devices for trucks, but not for my lungs.' People are experiencing very severe problems, and they need to be heard," Holmes-Gen said.

E-mail Wyatt Buchanan at wbuchanan@sfchronicle.com.

This article ap

<http://www.mercedsunstar.com/centralvalley/story/1219873.html>

Merced Sun-Star December 10, 2009

Staff member's lie about credentials prompts redo on report on diesel regulations

*By E.J. SCHULTZ
The Fresno Bee*

SACRAMENTO -- The state's air pollution board voted Wednesday to redo a key report guiding truck regulations that was prepared by a staff member who lied about his credentials.

But the California Air Resources Board stopped short of suspending the rules while the work is repeated -- a move pushed by a Valley member of the board.

Dr. John Telles has pressed his case for weeks, criticizing board staff and chairwoman Mary Nichols for failing to reveal that the lead author of a report on health effects of soot falsely claimed a doctorate in statistics from the University of California, Davis. Hien Tran later confessed that he obtained an online degree from an unaccredited university.

The incident gave momentum to critics of the regulations, including truckers who are pushing for a delay. Nichols and other board members have defended the science behind the report, but agreed to redo it after the pressure mounted.

"The work of that individual does have to be withdrawn and redone because of the problems that were created by his action," Nichols said before the board approved the action on an 8-2 vote. "We have no choice. We have to deal with it."

But the board never took up Telles' motion to suspend the rules in the meantime. Some members said the suspension would bring too much uncertainty. Telles said he was "dissatisfied that the board did not make a stronger statement."

Board staff estimated it would take four months to redo the report.

The regulations require owners of older heavy-duty trucks to install pollution filters starting next year. Beginning in 2013, owners must replace older trucks with 2010 or newer models.

In a separate action, the board directed the staff to propose amendments to the regulations that reflect the fact that emissions recently have been lower than projected because of the slumping economy. During the recession, fewer trucks are on the road, meaning pollution is lower, according to a staff report.

The report gives several possible alternatives, including delaying by two years the rules for mid-sized fleets of between 20 and 50 trucks. But the report warns against throwing out the rules, saying they are still needed to meet federal pollution targets. The San Joaquin Valley has until the end of 2014 to clean its air.

"We really can't meet without cleaning up our trucks," Sarah Sharpe, environmental health director for Fresno Metro Ministry, said in testimony.

Truckers -- who say they cannot afford to comply with the rules -- argued that the board underestimated the effects of the economic downturn on emissions. Gayle Lopopolo, co-owner of Ganduglia Trucking in Fresno, said the company's mileage is down by 39 percent.

<http://my.earthlink.net/article/us?guid=20091209/7a25d041-af4e-4057-9020-60bcd6db4376>

The Associated Press December 10, 2009

U.S. News

SACRAMENTO, Calif. (AP) — California officials took steps Wednesday to delay the nation's toughest rules to reduce diesel emissions, saying trucking companies struggling with a poor economy should be given more time to replace fleets with cleaner trucks. The state Air Resources Board said it would grant more time, in part, because diesel emissions are 20 percent lower this year than expected — a likely result of a recession-caused transport slowdown. The decision came after regulators heard from dozens of truckers who say they are bringing in less business and unable to pay for costly new equipment.

From Associated Press

December 10, 2009 2:37 AM EST

SACRAMENTO, Calif. (AP) — California officials took steps Wednesday to delay the nation's toughest rules to reduce diesel emissions, saying trucking companies struggling with a poor economy should be given more time to replace fleets with cleaner trucks.

The state Air Resources Board said it would grant more time, in part, because diesel emissions are 20 percent lower this year than expected — a likely result of a recession-caused transport slowdown.

The decision came after regulators heard from dozens of truckers who say they are bringing in less business and unable to pay for costly new equipment.

"I'm concerned these regulations could put us out of business," said Christina Ramorino, controller at Roadstar trucking based in Hayward. "With everyone hurting for business, it's hard for us to pass on this cost to our customers."

The board instructed its staff to explore ways truckers could more easily reach the state's goal of cutting diesel emissions by 2014, the date required to meet federal clean air standards.

Board chairwoman Mary Nichols she was interested in giving truckers more flexibility in the next few years, but rejected calls to set aside the standards.

"Given the gap between what we thought the emissions would be and what the emissions actually are, as a result of the down economy, we have some room to work without

compromising air quality," Nichols said. "If you've got the room and the you've the conditions we've got we should act."

The diesel rules were passed in 2008 and scheduled to take effect in 2011. Nearly a million vehicles must be replaced or retrofitted with smog traps, filters or cleaner-burning technology.

By 2014, all trucks must have soot filters. By the time the rule is fully implemented in 2023, no trucks or buses in California can be more than 13 years old unless equipment was installed to cut nitrogen oxide emissions.

The standards are projected to cost companies an estimated \$4.5 billion over the next 15 years.

Health advocates say California, a state plagued by smoggy skies and rising asthma rates, can't afford to be lenient on pollution standards. The new rules will reduce ozone-eating nitrogen oxides and soot-forming particulate matter that can become embedded in lung tissue.

"We're very aware of the economic problem you're hearing about today," said Bonnie Holmes-Gen, a senior policy director at the American Lung Association of California. "We're also very concerned about the hardship of those suffering daily from lung-health problems. We believe those voices need to be heard."

Board scientists estimate the amount of diesel particulate matter and nitrogen oxides emitted would be cut by about a third by 2023, preventing 9,400 premature deaths over 20 years, 150,000 asthma-related cases and 950,000 lost work days.

Board staff suggested the rule could be modified in the early years but still meet the 2014 targets required by federal law. For example, trucking companies with 20 to 50 trucks could be given an extra two years to comply; all companies could be given two more years to retrofit or replace 10 of their vehicles; or all fleets could be given an extra year to comply.

Any change in the rule would have to go through a public workshop and comments, meaning it would be April 2010 before the board could vote.

The board rejected a bid by some in the trucking industry, and at one of its own members, to disband the rule because a staffer who wrote the report associated with the regulation lied about his credentials.

Hien Tran was suspended without pay for two months and removed from his management position for saying he had earned a doctorate in statistics from the University of California, Davis. Tran had earned the decree from the unaccredited Thornhill University.

"The acceptance of a fraudulent report by this committee trumps this and has to be done correctly by someone who has not falsified his credentials," board member John Telles said.

The board instead directed the staff to rewrite the report but keep the regulation in tact.

<http://www.sacbee.com/capitolandcalifornia/story/2384344.html>

The Sacramento Bee December 10, 2009

Board delays diesel rules

By Jim Downing

jdowning@sacbee.com

Published: Thursday, Dec. 10, 2009 - 12:00 am | Page 1A

Last Modified: Thursday, Dec. 10, 2009 - 8:03 am

The [California Air Resources Board](#) gave truckers a break Wednesday on the state's tough diesel emissions rules, acknowledging that the bad economy has both improved the state's air quality and made anti-pollution upgrades unaffordable.

After a nearly seven-hour public hearing in [Sacramento](#) that featured more than 80 speakers including truckers, health and environmental advocates and even high school students from [Oakland](#), the air board ordered modifications to the rules drawn up for consideration in April.

Those changes could include significant delays in enforcement of the rules, depending on how quickly the economy recovers. The board also could add new exemptions for small trucking fleets in rural areas and additional financial incentives for truckers to install exhaust filters or buy newer rigs.

The board, however, did not concede to demands Wednesday from some truckers who urged the agency to abandon the rules altogether or postpone them for many years. Such a move stands to put the state in violation of key 2014 federal air quality targets, which the state is bound to meet.

"We have to get the tons (of pollutants) out of the air somehow," board chairwoman [Mary Nichols](#) said.

The air board also voted Wednesday to throw out a tainted health-impact report that had become a rallying point for opponents of the diesel rules and brought the agency widespread criticism.

The board ordered the study redone, drawing praise from the [trucking industry](#).

"That ... certainly went a long way to restoring faith in the process," said [Julie Sauls](#), spokeswoman for the [Sacramento-based California Trucking Association](#).

The controversy over the report also was the impetus for a lengthy apology delivered by Nichols at the beginning of Wednesday's hearing.

Nichols said she had erred last December in not properly disclosing that the lead author of the report had lied about his academic credentials.

The air board statistician, Hien Tran, claimed to hold a Ph.D. from the University of California, Davis. He had been a graduate student at the school, but had not completed his doctoral dissertation.

Nichols and several agency staff members knew about Tran's fraud before the board voted to adopt the diesel truck regulations last December. But Nichols opted not to disclose that information to the full board.

"The fact is that this was a mistake on my part," Nichols said Wednesday.

Last December, Nichols said, she thought the agency could effectively deal with Tran internally, and that the public-health case for the regulations was strong even without his report.

Tran's lack of credentials was reported by bloggers soon after the December 2008 vote, but there has yet to be a full public accounting of the episode from the agency.

The issue has opened the air board to harsh criticism from truckers, industry groups, bloggers and others, including two of agency's own board members, Fresno cardiologist John Telles and San Diego County Supervisor Ron Roberts.

"All I can say is, I apologize," Nichols said.

Tran was suspended for 60 days and demoted, but still works at the agency. Air board officials ordered his report reassessed by a peer review panel, which declared it sound.

Tran's main work on the diesel rules established the methods used to estimate the health benefits of reducing diesel pollution. A separate report calculated that the regulation would avert 9,400 premature deaths over 15 years.

Tran's report has no bearing on the main federal air quality targets that the regulations are designed to meet. Those targets were established by Congress, and the state faces serious penalties, such as blocks on federal transportation funds, if it doesn't comply. An act of Congress could change those federal targets.

The diesel rules are currently set to take effect in 2011. By 2014, all older trucks would be required to have soot filters. Fleet operators also are required to phase in newer engines or trucks that have built-in pollution controls. By 2023, all vehicles must have a 2010 model year engine or equivalent.

Large trucking fleets have earlier compliance deadlines than small ones.

<http://www.signonsandiego.com/news/2009/dec/10/diesel-pollution-rules-may-be-delayed/>

San Diego Union-Tribune December 10, 2009

Diesel pollution rules may be delayed

Air board easing off compliance deadline

By Michael Gardner, U-T SACRAMENTO BUREAU

THURSDAY, DECEMBER 10, 2009 AT 2:17 A.M.

SACRAMENTO — Stung by scandal and under intense pressure to retreat, the state Air Resources Board yesterday signaled an interest in delaying rules aimed at curbing toxic diesel soot from trucks.

But a majority of the regulators made it clear that they still expect truckers to eventually replace older rigs or retrofit the dirtiest engines. That would most likely happen in 2014, when the state must start complying with more stringent federal clean-air requirements.

The board directed its staff to return in April with a proposal for relaxing compliance deadlines to reflect how the nation's economic meltdown has idled thousands of trucks, already preventing tons of soot from being emitted.

Board members also said they won't enforce any of the first-stage requirements next year until they have reviewed ideas for making additional concessions to the battered trucking industry.

Under the current order, which applies to nearly 1 million trucks and buses, operators must change out diesel engines on older vehicles or install anti-pollution devices on newer ones starting in 2011.

Separately, the board directed its staff to come back with an assessment of how to assist the construction industry, which faces stringent soot-reduction rules as well.

During six hours of public testimony yesterday in Sacramento, dozens of struggling truckers implored the board to consider their plights. They shared stories of lost business and layoffs.

"It's a job-killing rule," said Bryan Bloom, president of Priority Moving in San Diego. He said compliance will cost \$1 million — money he doesn't have.

"It's the end of my company," Bloom said, beseeching the board to provide relief.

On the other side, Dr. Stephen Maxwell of Sacramento said research in the past 20 years has "consistently demonstrated the poisonous aspects of diesel soot." Truckers should consider that "they themselves have more than double the lifetime risk of developing lung cancer," Maxwell said.

In a report, the air board's staff confirmed that the recession has cut pollution to a point where early benchmarks established by the rule will already have been met. But in the long run, the regulations would cut even more soot and help the state comply with the 2014 federal clean-air mandates.

"The recession (alone) will not provide the reductions necessary," said Erik White, a staff expert on diesel pollution.

In a related move, the board ordered a new scientific review of the health effects of diesel exhaust. The decision came in response to revelations that the lead scientist who crafted a health-effects study used to justify the diesel rules had exaggerated his academic credentials.

Board member John Balmes, a professor of medicine at the University of California San Francisco, insisted that "the science stands on its own." But he also conceded, "We have to be squeaky-clean about our science."

Ron Roberts, another board member and a San Diego County supervisor, was critical of board and staff members who knew of the deception but didn't reveal it before the original December 2008 vote.

"This board is dependent on a public trust," Roberts said.

http://news.xinhuanet.com/english/2009-12/11/content_12630110.htm

Xinhuanet December 11, 2009

Feature: To pollute or not to pollute, that is a question for California

www.chinaview.cn 2009-12-11 12:55:51

by George Bao

LOS ANGELES, Dec. 10 (Xinhua) -- Diesel-driven road users in other U.S. states on Wednesday have their sighs of relief as California backtracked its diesel emission rules by delaying implementation.

California, the only U.S. state having the right to adopt its own emission regulations, passed in December last year the toughest standards in the country and all the other states are allowed to follow suit or opt for federal standards.

The relieved ranged in many states from drivers of trucks and buses to operators of heavy-duty apparatuses like standby generators and construction rigs.

The Associated General Contractors of America estimated that as many as 32 states were closely following the footsteps of California in enforcing the first-time emission limits for in-use fleets of diesel-driven equipment.

But in an unexpected policy turn allegedly prompted by the ongoing recession, the California Air Resources Board (ARB) has ordered modifications to the emission rule specifics worked out in April.

If implemented without delay, around 1 million trucks and buses nationwide will have to be retrofitted or replaced altogether while some older models will have to be phased out in due time.

The initial ARB standards require retrofits with smog filters or cleaner engine technology

beginning 2011 and with soot filters for all trucks and buses beginning 2014.

These rules would also apply to out-of-state motor vehicles driven in California.

All tallied, the new rules would cost the trucking industry alone 5.5 billion U.S. dollars.

The ARB acknowledged: "The bad economy has both improved the state's air quality and made anti-pollution upgrades unaffordable."

The board also had other considerations behind its regression from the diesel emission rules that were alleged to be able to prevent 9,400 premature deaths if implemented.

The ARB questioned the death figure and ordered state researchers to redo the report that had concluded that 3,500 people prematurely die each year due to diesel emission-caused pollution.

The order was made Wednesday after a hearing on concerns over the cost of retrofitting and replacing and after the finding of a report compiler who had lied about his academic credentials.

Christina Ramorino, who works for her family's Roadstar Trucking Company in Hayward, said past emission rules had cut the company's driving force already by 19 percent in the past two years.

"I'm 26 years old, starting my career, and concerned these regulations could very well put us out of business," Ramorino said at the ARB hearing.

Her father Robert said the company could afford to comply with the new standards only if it cut all medical and dental benefits for its employees.

But environmental activists and public health advocates pushed to keep the regulations.

Bonnie Holmes-Gen, senior policy director for the American Lung Association of California, quoted at the same hearing an asthma patient as saying: "There are retrofit devices for trucks, but not for my lungs."

Public health advocates stressed that California, a state plagued by smoggy skies and rising asthma rates, just cannot afford to be lenient on pollution standards.

The new rules would otherwise be expected to help reduce ozone-eating nitrogen oxides

and soot-forming carbon particulates that can become embedded in human lungs.

"We're very aware of the economic problem. We're also very concerned about the hardship of those suffering daily from lung-health problems. We believe those voices need to be heard," said Holmes-Gen.

Almost all the 50 U.S. states have to write their clean air "state implementation plans" (SIP) to show how they will meet the tighter federal standards.

For the time being, 19 states are having air pollution problems similar to those found in California.

And any state that fails to develop an "approvable" SIP can be subject to numerous federal sanctions including emission caps limiting economic development and losses of federal highway transportation funds.

http://news.yahoo.com/s/ap/20091210/ap_on_bi_ge/us_california_diesel_rules

The Associated Press December 11, 2009

Truckers ask Calif. to delay diesel-emission rules

By SAMANTHA YOUNG, Associated Press Writer – Thu Dec 10, 4:48 am ET

SACRAMENTO, Calif. – California's Air Resources Board is moving ahead with plans to delay the nation's toughest diesel emissions rules, allotting truckers wrestling with the economic downturn more time to invest in cleaner trucks.

Wednesday's decision came after regulators heard from dozens of truckers who say they are bringing in less business and unable to pay for costly new equipment.

"I'm concerned these regulations could put us out of business," said Christina Ramorino, controller at Roadstar trucking based in Hayward. "With everyone hurting for business, it's hard for us to pass on this cost to our customers."

The board said it would grant more time, in part, because diesel emissions are 20 percent lower this year than expected — a likely result of a recession-caused transport slowdown.

The board instructed its staff to explore ways truckers could more easily reach the state's goal of cutting diesel emissions by 2014, the date required to meet federal clean air standards.

Board chairwoman Mary Nichols she was interested in giving truckers more flexibility in the next few years, but rejected calls to set aside the standards.

"Given the gap between what we thought the emissions would be and what the emissions actually are, as a result of the down economy, we have some room to work without compromising air quality," Nichols said. "If you've got the room and the you've the conditions we've got we should act."

The diesel rules were passed in 2008 and scheduled to take effect in 2011. Nearly a million vehicles must be replaced or retrofitted with smog traps, filters or cleaner-burning technology. By 2014, all trucks must have soot filters. By the time the rule is fully implemented in 2023, no trucks or buses in California can be more than 13 years old unless equipment was installed to cut nitrogen oxide emissions.

The standards are projected to cost companies an estimated \$4.5 billion over the next 15 years. Health advocates say California, a state plagued by smoggy skies and rising asthma rates, can't afford to be lenient on pollution standards. The new rules will reduce ozone-eating nitrogen oxides and soot-forming particulate matter that can become embedded in lung tissue.

"We're very aware of the economic problem you're hearing about today," said Bonnie Holmes-Gen, a senior policy director at the American Lung Association of California. "We're also very concerned about the hardship of those suffering daily from lung-health problems. We believe those voices need to be heard."

Board scientists estimate the amount of diesel particulate matter and nitrogen oxides emitted would be cut by about a third by 2023, preventing 9,400 premature deaths over 20 years, 150,000 asthma-related cases and 950,000 lost work days.

Board staff suggested the rule could be modified in the early years but still meet the 2014 targets required by federal law. For example, trucking companies with 20 to 50 trucks could be given an extra two years to comply; all companies could be given two more years to retrofit or replace 10 of their vehicles; or all fleets could be given an extra year to comply.

Any change in the rule would have to go through a public workshop and comments, meaning it would be April 2010 before the board could vote.

The board rejected a bid by some in the trucking industry, and at one of its own members, to disband the rule because a staffer who wrote the report associated with the regulation lied about his credentials.

Hien Tran was suspended without pay for two months and removed from his management position for saying he had earned a doctorate in statistics from the University of California, Davis. Tran had earned the degree from the unaccredited Thornhill University.

"The acceptance of a fraudulent report by this committee trumps this and has to be done correctly by someone who has not falsified his credentials," board member John Telles said. The board instead directed the staff to rewrite the report but keep the regulation in tact.

http://www.dailydemocrat.com/editorial/ci_13975865

Daily Democrat December 11, 2009

Air board caved on new diesel rules

Published By Daily Democrat

Created: 12/11/2009 02:30:51 AM PST

The California Air Resources Board acted irresponsibly in suppressing the news that one of its lead researchers lied about his credentials. But that dishonesty does not change the fundamental public policy realities: Diesel emissions are a potent health hazard, and California cannot clean up its air without curbing pollution from diesel engines.

The agency needs to provide a full public explanation of why it covered up a researcher's fake degree, to help rebuild public credibility. And the air board will need to take extra care to operate in full public view -- which it should do anyway -- to rebound from this embarrassing misjudgment.

But the board should have resisted calls by critics to suspend diesel regulations when it reviewed the issue. The state simply cannot meet federal air quality standards or adequately protect public health without strict controls on diesel emissions.

Acting Wednesday, the board delayed the nation's toughest diesel emissions rules, allotting truckers wrestling with the economic downturn more time to invest in cleaner trucks.

The decision came after regulators heard from dozens of truckers who say they are bringing in less business and unable to pay for costly new equipment.

The board said it would grant more time, in part, because diesel emissions are 20 percent lower this year than expected -- a likely result of a recession-caused transport slowdown.

The board also instructed its staff to explore ways truckers could more easily reach the state's goal of cutting diesel emissions by 2014, the date required to meet federal clean air standards.

Yes, Air Resources Board officials made a serious mistake by covering up a researcher's lie. But stalling progress on reducing diesel pollution, and leaving people exposed to a clear health threat, does nothing to right that wrong.

<http://sanfrancisco.bizjournals.com/sanfrancisco/stories/2009/12/14/story12.html?b=1260766800%5E2577321>

Business Times December 11, 2009

Smog rules will cost 1,000 truckers' jobs at Oakland's port

San Francisco Business Times - by [Eric Young](#)

"As independent truckers, we carry all the responsibility," says Lorenzo Fernandez.

Oakland's port will see a significant culling from its trucking ranks next month.

An estimated 1,000 truckers — roughly one-third of the trucks that operate at the port — won't be allowed to haul loads at the port starting Jan. 1 due to stepped-up clean air rules that ban older, more polluting rigs.

The drivers of these trucks — most of whom are independent contractors — said that while they support clean air initiatives, they will be unemployed as a result of the rules. Some also used their predicament to highlight the need for drivers to become employees of trucking companies so that drivers don't have to be responsible for costs of vehicle maintenance.

"As independent truckers, we carry all the responsibility," said Lorenzo Fernandez, who has driven at the port for five years but will not be driving come Jan. 1. "The system is broken."

The truck drivers' bind is a by-product of an effort by the port and state officials to reduce harmful emissions. The **Port of Oakland**, one of the region's biggest polluters, earlier this year approved a \$650 million master plan to cut emissions from trucks, ships, trains and all other cargo-moving machines on the facility. The air quality improvement plan is designed to reduce diesel pollution 85 percent by 2020. Plus, state rules call for reductions in truck emissions in coming years.

At Oakland's port, trucks with engines built before 1994 will be banned from the port starting Jan. 1. Trucks built between 1994 and 2003 — which make up most of the trucks serving the port — must be replaced or retrofitted with filters that capture most of

the diesel exhaust. Retrofit devices cost about \$24,000 and a newer rig can cost \$40,000 or more.

About 1,000 drivers qualified for part of a \$22 million grant that paid for most of the cost of a diesel-soot capturing device or a new truck. As many as 1,000 other truckers paid for exhaust retrofits or new rigs themselves and a few trucking companies covered some of the upgrade costs.

When subsidy money ran out a few months ago, about 1,000 truckers were turned away, said Aaron Richardson, a spokesman for the Bay Area Air Quality Management District, which administered the program.

That left some incensed. “What the (port) said is we only need 2,000 trucks for service. Screw everyone else,” said Bill Aboudi, a trucking company owner whose six drivers were rejected by the subsidy program.

With cargo shipping on the decline at Oakland’s port — volume is down 11.1 percent through October versus last year — port officials said they have enough vehicles to allow for smooth operations in 2010.

Meanwhile, labor organizers are pressing the employee issue on behalf of truckers. The Coalition for Clean and Safe Ports, a group of residents and environmental and labor representatives, is lobbying federal lawmakers to give local officials clear authority to write regulations allowing ports to offer concession agreements with trucking companies that require drivers be employees. That effort is opposed by trucking industry officials.

<http://www.sacbee.com/editorials/story/2387038.html>

The Sacramento Bee December 11, 2009

Editorial: Enact truck rules based on reality

Published: Friday, Dec. 11, 2009 - 12:00 am

Even before Wednesday's hearing began, it was clear that the California Air Resources Board was prepared to roll back the tough regulations on truck and bus diesel emissions it approved last December.

As its staff report stated, the down economy had already reduced a least some of the pollution that prompted the regulations in the first place. With fewer trucks on the road, air board scientists reported that diesel emissions are 20 percent lower this year than they had previously predicted.

Because of the recession, trucking firms are not in a position to pay for the regulations, which are projected to cost \$4.5 billion over the next two decades. Both big and small firms have been forced to reduce rates, lay off drivers and idle their trucks.

On top of that, a credit crunch has made it difficult and in some cases impossible for them to obtain the financing they need to pay for soot traps and cleaner-burning truck engines the new air board regulations require.

After hearing from 80 witnesses, most of them distressed truckers, the board wisely agreed to modify its regulations but not abandon them.

Board members directed staff to come back in April with different options that could slow the phase-in of the new rules in the early years – especially for small companies. The options might also expand exemptions and provide additional financial incentives for truckers to install filters.

The board did not walk away from its rules altogether, as some trucking industry officials had requested. Diesel fumes and dirty air take a toll on public health and the state's economy as well, and the board rightly recognizes that threat.

In 2014, California faces a federal deadline to meet clean air standards. Without reductions in emissions from diesel trucks and buses, the state will not be able to meet that deadline and could face sanctions, including denial of federal transportation funds.

Although the Air Resources Board made the right call this week, it took it months to do so – unnecessarily. It is also troubling that CARB Chairwoman Mary Nichols did not inform the board about an agency statistician who lied about his credentials in preparing a health study on diesel emissions.

A peer review panel has since reviewed the statistician's work and found it to be sound. But Nichols should have known better than to withhold that information from her fellow board members.

The air board's reputation and its ability to protect health rest on strong science and analyses that reflect economic reality. The board's reputation has slipped with its handling of the diesel regs, but not irreparably.

<http://www.bakersfield.com/opinion/editorials/x113236872/Climategate-changes-rules-for-scientists>

The Bakersfield Californian December 12, 2009

Climategate changes rules for scientists

The Bakersfield Californian | Saturday, Dec 12 2009 08:56 PM

If, in the near term, anything comes of Climategate, the latest skirmish in the battle over the science of climate change, we hope it is this: That researchers will more fully appreciate the fact that the world is watching, that a vocal contingent will always doubt conclusions that support the idea of man-made warming, and that their work is being "reviewed" in a way few scientists have ever experienced. But then, most of them already knew that.

Delegates at the international climate talks currently under way in Copenhagen don't seem especially concerned about the controversy, which involves "revelations" gleaned from hacked e-mails sent from or to members of the University of East Anglia's Climatic Research Unit in England, which were posted on the Internet last month. Skeptics say the e-mails provide evidence that scientists have falsified data to exaggerate the threat of global warming.

Those in Copenhagen might choose to ignore the Anglia debate, but the political reality of the global-warming discussion, at least in the U.S., is that skeptics will seize on every perceived inconsistency and misstep and call it proof supporting a contrary position.

In that sense, Climategate is much like the controversy over the falsified academic credentials of a California Air Resources Board researcher who compiled data on the health effects of diesel exhaust in support of tough new regulations. Diesel emissions are undeniably harmful to the human lung, but one researcher's failure to compile an honest resume has cast doubt on the agency's entire body of work relative to the issue. CARB, its credibility shaken, was compelled to suspend the new rules.

Climategate isn't likely to derail Copenhagen, but it will taint the legitimacy of any decisions from the summit -- at least among U.S. skeptics, who in turn have the ear of politicians.

The only way climate-change researchers can erase the perception that they are "cherry-picking" data -- if in fact it's possible to change perceptions -- is to weigh all legitimate data and accept the fact that the evidence may not be as consistently supportive and irrefutable as they'd like. But then they've done that, too. One example: Michael Mann, a Penn State climate researcher whose e-mails were among those cited by critics, authored a 1999 study that's hardly been kept secret: "Northern Hemisphere Temperatures During the Past Millennium: Inferences, Uncertainties and Limitations."

We think of scientific study as a process that produces black-and-white answers, but research is full of rivalry, pride and pressure -- human failings that are magnified when politics plays the sort of role we've see here.

In an era when both sides of all politically charged environmental issues have their own scientists, it's more important than ever for researchers -- no matter who's signing their checks -- to weigh and share data with open minds. In a world of competing facts, it's more of a necessity than ever.

<http://www.fresnobee.com/opinion/v-print/story/1746533.html>

The Fresno Bee December 13, 2009

EDITORIAL: Air panel's decision wise, belated Diesel rule adjustments reflect tough economy, but bad moves hurt board.

Posted at 12:00 AM on Sunday, Dec. 13, 2009

Even before Wednesday's hearing began, it was clear that the California Air Resources Board was prepared to roll back the tough regulations on truck and bus diesel emissions it approved last December.

As its staff report stated, the down economy already had reduced at least some of the pollution that prompted the regulations in the first place. With fewer trucks on the road, air board scientists reported that diesel emissions are 20% lower this year than they had previously predicted.

Because of the recession, trucking firms are not in a position to pay for the regulations, which are projected to cost \$4.5 billion over the next two decades. Both big and small firms have been forced to reduce rates, lay off drivers and idle their trucks.

On top of that, a credit crunch has made it difficult and in some cases impossible for them to obtain the financing they need to pay for soot traps and cleaner-burning truck engines the new air board regulations require.

After hearing from 80 witnesses, most of them distressed truckers, the board wisely agreed to modify its regulations but not abandon them.

Board members directed staff to come back in April with different options that could slow the phase-in of the new rules in the early years -- especially for small companies. The options might also expand exemptions and provide additional financial incentives for truckers to install filters.

The board did not walk away from its rules altogether, as some trucking industry officials had requested. Diesel fumes and dirty air take a toll on public health and the state's economy as well, and the board rightly recognizes that threat.

In 2014, California faces a federal deadline to meet clean air standards. Without reductions in emissions from diesel trucks and buses, the state will not be able to meet that deadline and could face sanctions, including denial of federal transportation funds.

Although the Air Resources Board made the right call last week, it took it months to do so -- unnecessarily. It also is troubling that CARB Chairwoman Mary Nichols did not inform the board about an agency statistician who lied about his credentials in preparing a health study on diesel emissions.

It took the San Joaquin Valley's representative, Dr. John Telles, to demand accountability on this issue before CARB leaders did the right thing. Nichols' behavior in this matter is especially troubling, and has given board critics plenty of ammunition.

A peer review panel has since examined the statistician's work and found it to be sound. Nichols should have known better than to withhold that information from her fellow board members. She has broken trust with board members, and that won't be easy to repair.

The air board's reputation and its ability to protect health rest on strong science and analyses that reflect economic reality. The board's reputation has slipped with its handling of the diesel regulations.

<http://www.modbee.com/opinion/story/972151.html>

The Modesto Bee December 14, 2009

Air board right to delay diesel rules

The California Air Resources Board voted last week to delay implementing tough new rules on emissions from diesel trucks and buses.

It was the right move, though it should have come sooner, and the air board suffered a loss of credibility because Chairwoman Mary Nichols did not inform the board about an agency statistician who lied about his credentials in preparing a health study on diesel emissions.

A peer review panel since has reviewed the statistician's work and found it to be sound. But Nichols should have known better than to withhold that information from her fellow board members.

The air board's reputation and its ability to protect health rest on strong science and analyses that reflect economic reality. Obviously, the economic reality has changed since the diesel regulations were adopted a year ago. With fewer trucks on the road, air board scientists reported that diesel emissions are 20 percent lower this year than they previously had predicted.

Because of the recession, trucking firms are not in a position to pay for the regulations, which are projected to cost \$4.5 billion over the next two decades. Big and small firms have had to reduce rates, lay off drivers and idle their trucks.

On top of that, a credit crunch has made it difficult if not impossible for them to obtain the financing to pay for the soot traps and cleaner-burning engines.

Last week after hearing from 80 witnesses, most of them distressed truckers, the board wisely agreed to modify its regulations. Members directed staff to come back in April with options that could slow the phase-in of the rules in the early years — especially for small companies. The options might include expanding exemptions and providing additional incentives for truckers to install filters.

The board did not walk away from its rules altogether, as some trucking industry officials had requested. Diesel fumes and dirty air take a toll on public health and the state's economy, and the board rightly recognizes that threat. Furthermore, in 2014, California faces a federal deadline to meet clean air standards. Without reductions in emissions from diesel trucks and buses, the state will not be able to meet that deadline and could face sanctions, including denial of federal transportation funds.

http://www.capitolweekly.net/article.php?_c=yhns8rqk5jtmrl&id=yhneshlgbmxosh&done=.yhns8rqk5kbmrl

Capitol Weekly December 17, 2009

California's diesel rule gets renewed scrutiny

By **John Howard** | 12/17/09 12:00 AM PST

A News Analysis

When Gov. Arnold Schwarzenegger traveled to Copenhagen to tout his record battling global warming, at home a very different story developed. He told his top air-quality regulators to change – and, critics fear, potentially weaken -- a premier regulation curbing diesel soot.

The paradox was not apparent in Denmark: The governor, his popularity at a record low in California, didn't mention the setback involving a nationally watched regulation governing a million trucks and school buses.

But at home, the action marked a significant political and policy event. Gov. Schwarzenegger demanded that the diesel regulation be retooled by the Air Resources Board to “help small and mid-size companies meet these important air quality regulations.” The governor appoints all the members of the 11-person board, including the chairwoman.

“It is clear,” the governor said, that “clear responsible action is needed.”

The ARB, accustomed to public pressure, frequently tweaks regulations, but rarely does so at the direct, public orders of the governor. But this regulation already was clouded by controversy. It was not formally delayed or rescinded as two commissioners wanted, but the fact that new provisions will be added under pressure from the governor reflects the political intensity surrounding the issue.

It also shows the susceptibility of the governor, not for the first time, to bow to pressure.

The governor, in a carefully worded public statement, said that despite the new

provisions he seeks, the “final 2014 implementation date” will not be affected. He did not mention the initial January 2011 date.

The ARB says the timetable of the regulation remains unchanged, although environmentalists who track the board’s activities said a startup delay is likely. “There’s no question,” said Bill Magavern, director of Sierra Club California. “And there is a danger that by accommodating the truckers, the ARB will lose some of the early benefits of cleaning up the fleet.”

The board itself says the regulation is going forward as planned, and is being altered to reflect the impact of the recession on the diesel vehicle industry – an impact that the industry itself repeatedly raised before the ARB voted on the rule.

The potential delay reflects a political victory of sorts for the diesel industry, which includes numerous small and mid-size companies that opposed the proposed regulation from the beginning. It also reflects an embarrassment for some newspapers that editorialized in favor of the original regulation a year ago, despite opposition from the industry, and now are editorializing in favor of the new provisions.

“We’re definitely disappointed at this delay. What this means is that a child living in the Central Valley will have to wait longer to breathe clean air,” said Matt Vander Sluis, who handles global warming issues for the Planning and Conservation League.

The ARB acted after public criticism erupted over a key staffer’s falsification of his academic credentials. The ARB staffer, Hien Tran, did not really have a Ph.D. from UC Davis as he claimed. That admission cast a cloud over the report he headed that served as a critical underpinning of the new regulation.

The scientific validity of Tran’s study was not the issue – at least not initially. But as criticism grew from some in the scientific community, the health report was scuttled and a new one ordered in its place. On the board, the lead critic of the report was Dr. John Telles, a Fresno cardiologist, who was angered that many on the board did not learn of the credential falsification before they voted on the regulation -- even though top ARB staffers and Chairwoman Mary Nichols were aware of the problem.

“We take the employee misconduct very seriously but it should not affect an extremely

important public health measure that has been extensively reviewed throughout the scientific community. We have tightened up our procedures to ensure an incident like this never happens again,” Nichols said.

The new regulation will prevent thousands of premature deaths every year in the state and save billions of dollars in health care costs, the administration says. The ARB estimated the financial impact of the regulation at \$4.5 billion to \$5.5 billion, which includes the cost of fitting vehicles with anti-pollution devices.

According to an ARB analysis, the new standards are projected to prevent 4,000 premature deaths, 110,000 asthma-related cases, 9,200 cases of acute bronchitis and 680,000 lost work days over 20 years. The requirements also would save up to \$26 billion in health care cost by 2030, according to air board projections. The rule requires truck owners to install diesel exhaust filters on their rigs by Jan. 1, 2011, with nearly all vehicles upgraded by 2014.

The new regulations do not apply to snow-removal equipment and other such vehicles that run less than 100 hours per year. Emergency vehicles, agricultural equipment and vehicles that run on less than 25 horsepower also would be exempt.

“There is going to be a series of workshops and an update to the board in April with some new provisions and a new health report,” said ARB spokeswoman Mary Salas Fricke. The ARB, heeding the governor, ordered its staff “to return to the Board next April with a new provision that would provide truck fleets more flexibility in cleaning up their diesel emissions under the state’s Truck and Bus Rule that was adopted in December of last year, in light of the recession’s effect on the industry.”

The ARB said “the down economy has reduced the amount of time trucks have operated, thus reducing harmful diesel emissions that would have occurred during normal economic times.”

Many in the Capitol in both parties believe Schwarzenegger is not deeply engaged on key issues. But that clearly is not true on global warming policies, which he sees as his administration’s legacy. He has not hesitated to wield clout over the ARB, up to and including the firing of the chairman.

“They (board members) are all appointed and at any point he could take off one of those

members and replace him with any other member. The board has prized its independence, but they are going to listen to what the governor wants,” Magavern said.

<http://www.signonsandiego.com/news/2009/dec/18/gov-knew-carb-scandal-dec-19-2008/>

San Diego Union-Tribune December 18, 2009

Gov knew of CARB scandal on Dec. 18, 2008

By [Chris Reed](#),

FRIDAY, DECEMBER 18, 2009 AT 11:15 A.M.

Yesterday's Capitol Weekly story outlining the governor's role this month in pressuring the state air board to delay implementation of controversial air board rules on diesel emissions is only the latest example of the Sacramento-based media's peddling of a highly misleading narrative. The story that's still not being told is that the governor's office was informed a year ago today that the lead scientist on the study used to justify the costly, sweeping rules had lied about his credentials. The governor's office called for a thorough probe.

But nothing happened for 11 months, despite five Union-Tribune editorials, four print columns and many blog items on the scandal that I wrote, many adding new details. Why? The governor's office hoped the scandal would go away. The Sacramento media didn't care. The air board hoped the scandal would go away. Only when an air board member, Dr. John Telles, got wind of the scandal this fall did the gov, the media and the air board stop pretending this wasn't a real scandal.

This blog item is from 364 days ago:

BEGIN

December 19, 2008

UC Davis: Air board scientist does not have degree he claimed. Governor's office: Thorough probe needed.

UC Davis spokesman Andy Fell just told me definitively that Hien T. Tran -- the [California Air Resources Board](#) scientist who was the lead author of the study making the case for controversial diesel regulations adopted by the board Dec. 12 -- does not have a doctorate degree in statistics from the UC campus, as he claimed. No one by that name has ever earned such a degree at UC Davis.

Someone with that name holds a master's degree in statistics from UC Davis, presumably the air board's Tran.

"We expect ARB to thoroughly investigate the matter and take the appropriate actions," Jake Suski of the governor's office said in an e-mail to me yesterday when there was no definitive word yet from UC Davis.

Meanwhile, [UCLA](#) epidemiologist James E. Enstrom, who first raised questions about Tran's academic claims, told me that he informed three air board members in person of Tran's dissembling more than a week before the air board's Dec. 12 vote.

UPDATE, 1:45 P.M.: The three members Enstrom said he told in person about Tran's deception are Riverside Mayor Ron Loveridge, former San Bernardino County Supervisor Barbara Riordan and Dr. John Balmes, a medical professor at UC San Francisco.

Also, I posed this question by e-mail to ARB chairwoman Mary Nichols:

Were you aware of UCLA epidemiologist James E. Enstrom's warning that Hien Tran had been lying about his credentials before the Dec. 12 vote on the diesel regulations?

I'll post a response when/if I get one.

END

I never got a response from Nichols.

Meanwhile, the Sacramento Bee, led by Dan Walters, continues to pretend that before the last few weeks, this scandal had only gotten a "couple of brief mentions" in the media and that "a couple of bloggers" wrote about it last December. The truth is the scandal was blown wide open -- and the Bee and everyone else pathetically chose to ignore it until they had no choice to write about it because of Telles.

<http://www.badlandsjournal.com/2009-12-21/007483>

Badlands Journal December 21, 2009

State air board caves to truckers

Submitted: Dec 21, 2009

By: Badlands Journal editorial board

Special interests can't run a government that protects its citizens

The Fresno Bee on Monday praised the California Air Resources Board's decision to roll back the new, tougher regulations on diesel emissions. California contains the two worst air-pollution basins in the United States, Los Angeles and the San Joaquin Valley.

Fresno, in the middle of the San Joaquin Valley, has earned the title, "Asthma Capital of California. Nearly one in three children in Fresno, about 75,000 in 2005, had asthma, according to the Fresno Bee. 2005 was the height of the speculative housing building boom.

Trucking companies are losing business in a recession, states the editorial, therefore emission regulations were rightly rolled back by the air board, despite evidence many trucking companies have already converted to cleaner burning trucks. Inconveniently, there are also a number of CARB sponsored programs to provide financial assistance to truckers to achieve regulatory compliance, for example:

California Air Resources Board

<http://www.arb.ca.gov/homepage.htm>

Background

ARB is developing innovative financing programs to provide fleet owners, particularly small business owners, easier access to loan opportunities. The ARB's loan programs may offer several options to increase financing accessibility, including loans, loan guarantees, and other mechanisms to assist industries affected by ARB regulations.

Programs

- 2009 Air Quality Loan Program request for proposals to develop and implement an alternative air quality financing model up to \$10,000,000.
- The PLACE Program for Off-Road Vehicles (formerly Pilot Off-Road Loan Incentives (POLI)) loan guarantee program is available for off-road vehicle owners needing assistance for financing for retrofits.

- The The PLACE Program for On-Road Vehicles (formerly On-Road Heavy-Duty Vehicle Air Quality Loan Program) offers financial assistance to fleet owners subject to two regulations approved by the Board in December, 2008.

The Goods Movement Emissions Reduction Program may potentially offer loan assistance to upgrade equipment used in freight movement along California's trade corridors.

Environmentalists who recall CARB Chairperson Mary Nichols' work as secretary of the state Resources Agency under former Gov. Gray Davis are not surprised by this board decision. Nichols routinely bent environmental rules for a special interests.

The state air board's decision was an abdication of its authority and responsibility, a cop out, a sell out, an admission that the state's famous Global Warming Solutions Act of 2006 is nothing but hypocritical hot air. Gov. Arnold Schwarzenegger, the Hunchik, spoke in Copenhagen at the UN climate change conference on the roll of "subnational" regions to initiate "grassroots regional efforts" to combat global warming. Welc delegates spoke warmly of his message. With respect, we disagree with the Welsh.

First, it is ridiculous to consider California, the seventh largest economy in the world, containing the second largest city and the largest population in the US, "grassroots" on any subject. In the case of our Hunchik, who has made a peripheral canal to destroy the largest estuary on the Pacific Coast the cornersone of his second term, it is absurd. Considering that he has served as governor and leading cheerleader through the largest, most destructive speculative building boom and bust in state history, it is doubly absurd. What real political leadership on the environment, water and real estate bubbles should have done during the Hunchik's regime was everything possible to warn residents of the approaching dangers. Instead, the state sold itself to Wall Street.

When a newspaper calls governmental corruption "wise," it doesn't enlighten its public; it spreads cynicism and irrationality. The skeleton of the Valley economy showing through the housing collapse is the same as always: export-led agricultural production. This economy cannot function without large fleets of diesel trucks, one of the largest contributors to Valley air pollution. But the famous "Valley Way of Life," often touted by our politicians at election time, amounts to little more than protecting corporate profits by taking them out of labor and the environment while whining for more subsidies and federal and state handouts for the systemic social, economic and environmental destruction this form of economy has caused since its

inception. In the battle between childrens' respiratory disease and corporate profits, public health and safety are once again sold out by government to cheers from the press.

Badlands Journal editorial board

<http://www.inlandnewstoday.com/story.php?s=12112>

Inland News Today January 2, 2010

Bad economy improves air quality

SACRAMENTO - The California Air Resources Board is giving truckers a break on the state's tough diesel emissions rules.

The ARB acknowledged that the bad economy has both improved the state's air quality and made anti-pollution upgrades unaffordable.

The air board ordered modifications to the rules drawn up for consideration in April.

The ARB initially passed the diesel truck and bus rule last December that requires truck owners to install diesel exhaust filters on their rigs by 2011, with nearly all vehicles upgraded by 2014.

The regulation was estimated to prevent 9,400 premature deaths over its lifetime.
(INT)

Story Date: December 18, 2009

<http://www.signonsandiego.com/news/2010/jan/03/state-air-board-must-clean-its-own-house/>

The San Diego Union-Tribune January 3, 2010

State air board must clean its own house

BY JOHN [DUNLAP](#)

SUNDAY, JANUARY 3, 2010 AT 12:01 A.M.

The [California Air Resources Board](#) recently threw out a tainted study about the health effects of diesel truck emissions after it was disclosed that the author of the report had lied about his academic credentials. CARB officials had known since December 2008 that the researcher had falsified his credentials, but did not tell board members.

As a former CARB board member and chairman, I was heartened to see current Chairman Mary Nichols' gracious apology at the Dec. 9 board meeting for the recent mistakes that have been made in the on- and off-road diesel rule-making process.

While it was noted and appreciated, more progress remains to be made in rebuilding confidence in several of CARB's program areas.

As part of last month's board meeting, the board itself, along with members of the regulated community, Legislature and Schwarzenegger administration, have stepped forward to demand transparency to ensure that recent past patterns not repeat themselves. The CARB board members who demonstrated their integrity by publicly questioning the sullied technical process surrounding the diesel rules will find parallels in the CARB staff's treatment of the makers of sand cars, also called dune buggies – recreational vehicles with large tires designed for use on sandy terrain. And there are parallels to the treatment of members of the activist group Californians for Enforcement Reform and Transparency.

What has emerged, it seems, is an attitude and belief among some CARB staff that the ends justify the means and that full disclosure and transparency are not required before the board or the public. This runs counter to the very tenets of democratic law and due process.

It is a system that begs for scrutiny and reform and can only benefit from more board-level involvement. As it now stands, the CARB chief counsel plays the role of a sort-of regulatory sheriff, prosecutor and judge. It defies due process and fundamental separation-of-power principles that CARB staff – or any government official – could be allowed to assume all these positions of power – with unlimited discretion and without any meaningful checks and balances.

To make matters worse, the CARB staff does not make public its formula for assessing fines. Its coda: "We decide. You pay. No questions asked." This system harms businesses and eliminates incentives that might have existed for California businesses – including thousands of small, struggling companies – to work proactively and cooperatively with CARB in seeking sensible, cost-effective paths to compliance.

In an especially egregious case, CARB bullied more than 35 small California businesses that manufacture sand cars by retroactively imposing emission rules on recreational vehicles built before the regulations even became law in August 2007.

CARB's actions have real human consequences. Kit Enger, the head of the Sand Car Manufacturer Industry, told CARB recently that his members have been devastated by a settlement paid to CARB of more than \$600,000. It has been widely reported that, as a direct result of the settlement, five sand car manufacturers were forced out of business.

As a former CARB chairman, I am keenly disappointed to see such conduct, which can only lead to a loss of trust and the erosion of CARB's effectiveness as an agency, especially during economic hardships – a time when true, transparent leadership virtues are needed more than ever.

It should not work this way. Indeed, California's leadership role in pollution matters is founded on a more honorable tradition, and one that proves more effective.

Make no mistake: Ensuring clean air is a vital mission for all Californians. Indeed, the state aspires to be a national and world leader in climate matters, which requires being above reproach on all internal processes. To achieve these goals and preserve its credibility and integrity, it is imperative that CARB act with openness and respect for the law.

CARB's mission is devoted to cleaning the air. But in terms of the way it has operated in several areas, it must also clear the air.

Dunlap served as chairman of the California Air Resources Board from 1994-1999. He currently owns a California-based advocacy and consulting group that includes among its clientele Californians for Enforcement Reform and Transparency. For more information on possible CARB reforms, go online to www.certreform.org.

<http://www.martinezgazette.com/news/story/i569/2010/01/09/trucking-companies-hurt-recent-environmental-rules>

Martinez News-Gazette January 9, 2010

Trucking companies hurt by recent environmental rules

By Jesse Lanum

Special to the Gazette

January 9, 2010

The trucking industry is preparing for the first of a series of crippling regulations dealt them courtesy of the California Air Resources Board (ARB), whose goal has been to combat the side effects potentially caused by diesel emissions. Over the past several months, the science behind these regulations has come under increased scrutiny, specifically due to the credential fraud committed by one of ARB's lead researchers.

All Drayage diesel trucks older than 1994 must be retired from service. Those built between 1994 and 2003 must undergo a costly retrofit — a soot trap ranging in price from \$12,000 to \$25,000, depending on the age of the vehicle.

Leo Kay, the Communication Director for the ARB, said that there are approximately 20,000 affected trucks in California. ARB offered \$11 million in grants for the affected truckers. Each trucker could potentially receive \$5,000 toward the retrofit of their diesel. The regulations were set to go into effect on January 1, 2010; however, there was not enough money to go around, and truckers were recently afforded two weeks grace.

The diesel particulate matter the regulations is meant to curb what is known as PM2.5. According to ARB's research, PM2.5 is known to cause premature deaths.

Len Serpa, owner of the Len Serpa dump truck company in Martinez, said that his company will be heavily affected by the regulation. "We have only one 2008 truck," said Serpa. "That would be the only truck to meet standards. We would have to throw the rest out."

Serpa is a member of California Dump Truck Owners Association (CDTOA), which has called into question the credentials of the ARB scientists responsible for demonstrating the dangers of diesel emissions. The organization discovered that one of the lead authors had lied about having a doctorate from UC Davis. ARB reported that the credibility of the peer

reviewed work on PM2.5 was buttressed by the doctorate of Hien Tran. They later admitted to discovering that Tran did not have the doctorate. In fact, he had only recently purchased a doctorate from Thornhill, an unaccredited online university, according to consumerfraudreporting.org.

Tran was reportedly demoted but retains a position with ARB. His scientific work cited in moving forward with the regulations will be redone in the future, but the regulations will not be delayed in the interim.

In response, Lee Brown, the Executive Director at CDTOA, wrote a letter to Gov. Schwarzenegger asking him to call for an immediate investigation of ARB.

“The scientific basis for CARB’s on-road diesel regulations is the October 24, 2008 CARB Staff Report on PM2.5 and Premature Deaths in California by lead author Hien T. Tran. However, lead author Tran admittedly misrepresented his qualifications and education, as he did not in fact have a Ph.D. from UC Davis as he had originally claimed,” Brown wrote.

Schwarzenegger has not yet responded to his December 9 letter.

Brown drafted another letter to the President of the UC system, asking him to release ARB scientist and UC Berkeley professor Dr. Michael Jerrett’s data on PM2.5 harm. Brown claims that Jarrett has been secretive with his work; moreover, the data he is using comes from the East Coast and has been unjustly extrapolated to California.

Dr. James Enstrom, an epidemiologist at UCLA with thirty-five years of experience, is the only scientist to have completed the most comprehensive study on the effects of PM2.5 in California. Dr. Enstrom found a risk factor of zero for Californians with respect to PM2.5. Instead of using those results, the ARB scientists used a study that took place in the Netherlands, among others, to come to their findings.

“The association [of premature death and PM2.5] is extremely weak by epidemiological standards. The initial findings were not supported by subsequent studies,” Enstrom said. “A lot of particulate matter in California is just road dust or from forest fires,” Enstrom added.

Enstrom has written a number of letters to Jerrett as well as other ARB scientists, hoping to understand why they have chosen to bypass the only comprehensive state data available, and he has not received a response.

“California has the fourth highest life expectancy in the country,” said Enstrom. “Life expectancy is too high for this to make sense.”

Many of the big trucking fleets were able to update their vehicles for coming regulations, but it has been a different story for small businesses and lone owner/operators. Those who support their families by driving their own trucks are forced to ante up or be cut out of business.

Brown said that ninety-five percent of the trucks in his organization would be off the road with the coming regulation. In 2007, CDTOA membership was at 1400. As of today, membership has dropped to 800.

“What does cause tremendous health affects is unemployment,” said Enstrom

There are more emissions restrictions coming, and it doesn't stop with trucks. Tractors, boats and construction equipment are on the chopping block as well. Kay said that, by 2020, California will have reduced diesel emissions by eighty-five percent.

Due to the economic downturn, a few of the regulations affecting tractors and construction equipment have been delayed, but they're not delaying the restrictions to loosen the noose on California workers. The slowdown of industry is essentially good news for emissions regulators.

“A lot of people aren't working right now, so we may be reducing diesel emissions enough just by having those trucks off the road,” said Kay.

Enough refers to federally mandated restrictions of state diesel emissions. In order to be awarded federal money for highway repair, Kay said that California must cut diesel emissions.

“We're trying to balance the need to protect the environment and the economy,” Kay said.

ARB documents on diesel particulate matter going back to 1977 can be found at cdtoa.org.