



May 30, 2008

Hon. Senator Don Perata
Chair, Senate Rules Committee
State Capitol, Room 205
Sacramento, CA 95814

Re: Senate Hearing for Mary Nichols, Chair, California Air Resources Board

Dear Senator Perata:

I am writing regarding the upcoming Senate Rules Committee confirmation hearing for Mary Nichols as Chair, California Air Resources Board (CARB). I wish to call to your attention serious problems with the CARB "Goods Movement Emission Reduction Plan," which could cost the California economy billions of dollars at a time when the state is already billions of dollars in debt. This issue is addressed in my May 27, 2008 *Washington Times* commentary, "Diesel risks mostly hot air?" A copy of this commentary is printed below. Before Ms. Nichols is confirmed she should indicate a willingness to address the serious issues raised in my commentary.

I am particularly concerned that the CARB plan appears to be based primarily on the health effects of diesel particulate matter outside of California. Several important studies -- none of which has been considered by CARB -- have found no significant mortality risks associated with particulate matter in California (see U.S. map). In spite of this California-specific evidence and in spite of record low levels of particulate matter in California, CARB has steadily and problematically increased its estimates of the number of annual premature deaths allegedly caused by diesel particulate matter: from 750 in 2005, to 2,400 in 2006, to 3,900 as of May 22, 2008. These estimates contrast with the fact that the US Environmental Protection Agency has never determined that diesel exhaust causes premature mortality. Furthermore, no other state has a diesel emission reduction plan.

As a former federal regulator and a as physician involved with the analysis and regulation of health related issues during the past thirty years, I am particularly disturbed that billions of dollars are about to spent in California to deal with what appears to be at most a *de minimis* -- that is, negligible -- health risk. Because CARB regulations have a tremendous impact on the California economy and on California competitiveness in the world economy, I hope that your confirmation hearing will address the issues that I have raised.

Thank you very much for your consideration.

Sincerely yours,

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Henry I. Miller, M.D.
Research Fellow
650.725.0185
E-mail: miller@hoover.stanford.edu

...ideas
defining
a free
society

The Washington Times COMMENTARY: "Diesel risks mostly hot air?"

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

Henry Miller
Tuesday, May 27, 2008

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.

Fine Particles and Mortality Risk

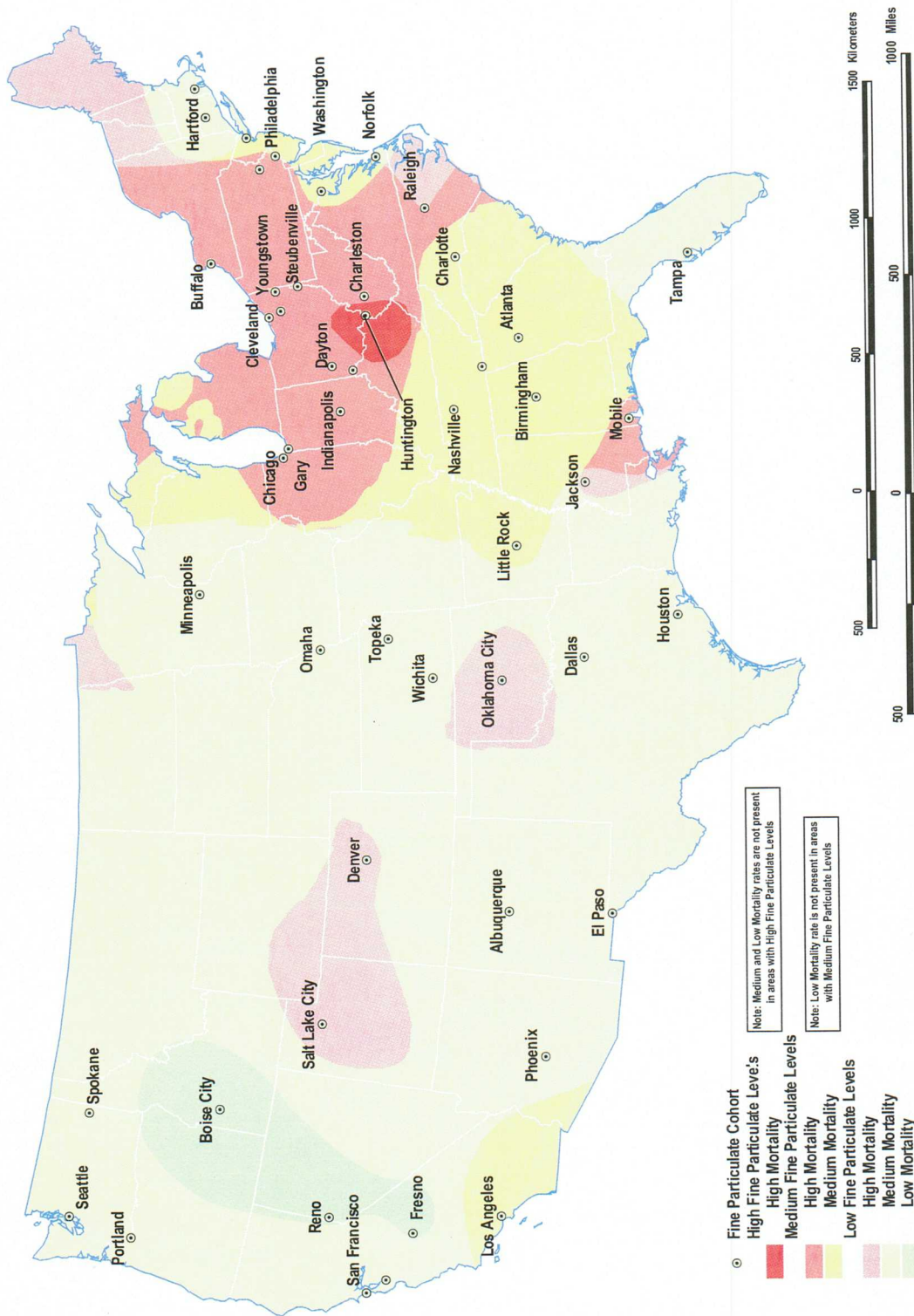


Figure 21. Spatial overlay of fine particle levels and relative risk of mortality. Interval classifications for fine particles (in $\mu\text{g}/\text{m}^3$): low 8.99–17.03; medium 17.03–25.07; high 25.07–33. Interval classifications for relative risks of mortality: low 0.502–0.711; medium 0.711–0.919; high 0.919–1.128.