

PAMELA WILLIAMS

17 So now we have Pamela Williams.

18 MS. WILLIAMS: I represent the California
19 Retailers Association, which is a statewide trade
20 association consisting of a broad array of mostly retail
21 companies from department stores to major grocery chains,
22 chain drug stores, and then what we call specialty retail,
23 which are the mass merchandisers, the book stores, the
24 jewelry stores, the auto stores, and the home improvements
25 stores.

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1 And a lot of the testimony today was from a
2 number of different or organization that I think have one
3 or two sets of regulations that they're subject to. And I
4 know the Trucking Association said they had a couple, and
5 Bill Davis said he had a couple.

6 I think we win the day at nine sets of
7 regulations that the retail industry is required to deal
8 with, just CARB. And there are not very many major retail
9 companies that are headquartered in California anymore for
10 a number of reasons. But for those that are operating
11 nationally and internationally, one of the key factors
12 that's important for them is certainty. They totally get
13 that California does have different laws and different
14 requirements. They're not trying to say they want a
15 national solution for everything. But they do say, tell

16 us what we need to do. Tell us how to do it. Tell us
17 what our liability or exposure is in terms of any levels
18 of violation.

19 So taking that into consideration, there's two
20 areas that we'd like to urge you to make some changes.

21 And the first one is on the issue of certainty.
22 There are some policies that we think are being enforced
23 rather than the actual text of the regulations. And our
24 example on this one is the composite wood ATCM. The regs
25 itself that require retailers take reasonably prudent

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1 precautions to ensure compliance. At the webinar and in
2 subsequent e-mail conversations from my members where
3 they've said, "Could you give us what does 'reasonably
4 prudent precautions' mean? We want to be sure we're doing
5 whatever it is you think we should be doing."

6 They were told to comply with the Cal/EPA due
7 diligence policy dated October 2003 on the Cal/EPA
8 website. And we did say, well, that requires all sorts of
9 activities. There's six different points in that EPA
10 compliance that businesses have to do -- we're recommended
11 to do. And their response was -- these are my favorite
12 two sentences in the row here -- "In answer to your
13 concern about due diligence, the due diligence policy are
14 recommendations only and are not required by law."

15 Fair enough.

16 "Should a violation occur, we will consider your
17 efforts in these areas to determine culpability and the
18 amount of financial penalty we will pursue."

19 Doesn't sound terribly consistent.

20 So we are concerned that that might be considered
21 an underground regulation or in some way a policy that's
22 being enforced rather than the actual language of the ATCM
23 itself.

24 And secondarily, we would urge you to perhaps
25 tier or rank some of the criteria on the initial

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1 presentation -- staff presentation. There's the list of
2 criteria that you take into effect when you're considering
3 a penalty, and all of which are very good and very viable
4 criteria by which to judge culpability. But we would
5 suggest that they be ranked in terms of priority based on
6 your goals which are emissions.

7 So in other words, if you have a paperwork
8 violation and it's the first time, that's considered a
9 less egregious penalty than somebody who's a repeat
10 violator with enormous amounts of emissions that may be
11 consistently being improperly released. There should be
12 some balance we think in those criteria. And while we
13 support the use of all of those criteria, they should be
14 ranked in terms of importance. And we have not seen
15 evidence that those have been considered. They are

16 considered by your staff. I believe it's equally as
17 important rather than the emissions factor should be the
18 most important.

19 And, lastly, we would echo some of the other
20 issues that were raised by the CERT coalition from
21 previous testimony.

22 Thank you.

23 MS. MILLER: Thank you.