



May 3, 2021

Members of the Governing Board
South Coast Air Quality Management District (SCAQMD)
21865 Copley Drive
Diamond Bar CA 91765

Re: Support for strengthening and adopting Proposed Rules 2305 and 316 (Warehouse Indirect Source Rule (ISR))

Dear Chair Benoit and members of the SCAQMD Governing Board,

The Coalition for Clean Air supports the final approval of Rules 2305 and 316, the warehouse indirect source rule (ISR.). While the formal rulemaking process for the ISR began in 2016, the demand to address warehouse pollution stretches back decades. The South Coast Air Basin's persistent extreme nonattainment of the National Ambient Air Quality Standards (NAAQS) and the enactment of 2017's AB 617 stress the need for emission reductions from the goods movement sector.

While we support the final approval of Rules 2305 and 316, we urge SCAQMD to enact the strongest rule possible. A strong rule would be highly stringent, prioritize actions that result in emission reductions, and would not allow paper compliance. The proposed warehouse ISR has room for improvement on these points. We also repeat our call to consider local cumulative impacts on communities affected by the goods movement industry.

Our comments are below:

- **The proposed warehouse ISR will result in emission reductions, create localized benefits, and provide warehouses with flexible pathways to compliance.**

Southern California faces enormous air quality challenges due, in part, to the goods movement industry. Not only does the district fail to meet NAAQS and state standards for multiple air pollutants, but carcinogenic diesel particulate matter is the predominate air toxic contaminant in the region. As such, SCAQMD must use all "reasonably available control measures" to reduce emissions. (Calif. Health & Safety Code §40462(a).) AQMD staff projects the warehouse ISR will result in 1.5-3 tons per day (tpd) in NOx reductions. These reductions are not insignificant and will complement other regulations promulgated by the California Air Resources Board (CARB.) Additionally, transitioning away from diesel trucks will reduce the amount of toxic air contaminants plaguing Southern California. Lastly, the proposed ISR gives warehouses a large degree of flexibility in meeting compliance rather than mandating specific requirements.

- **The warehouse ISR is a key emission reductions strategy prioritized by four South Coast AB 617 Community Steering Committees. Further, members of all Year 1 and 2 communities identified warehouses as a threat to local air quality and health.**

The warehouse ISR is the most significant test of SCAQMD's commitment to AB 617. Four of the five Community Emissions Reduction Plans (CERPs) approved by SCAQMD and CARB include the warehouse ISR. Further, members of the Eastern Coachella Valley Community Steering Committee submitted a letter to SCAQMD expressing concerns about warehouse expansion. SCAQMD's failure to approve the warehouse ISR would call into question the district's commitment to AB 617. Additionally, failing to pass the warehouse ISR would set a bad precedent for other indirect sources, including railyards and ports.

- **The Governing Board should increase the rule's stringency from the currently proposed .0025 to .005. A more stringent rule would maximize emission reductions with negligible economic impact.**

The Warehouse Actions and Investments to Reduce Emissions (WAIRE) Points Compliance Obligation (WPCO) formula, which would determine the minimum number of points warehouses are required to earn, includes a "stringency" value. Three stringency values were discussed during the rulemaking process: .0001 (low), .0025 (medium) and .005 (high). Ultimately, SCAQMD staff chose the medium value, noting the low value was essentially pointless. Setting the stringency value to .005, however, would maximize emission reductions. IEC's economic analysis showed that, even at the highest projected cost, only 6 additional warehouses may relocate over baseline assumptions. Considering there are over 3,000 covered warehouses within SCAQMD territory, the economic impacts from increased stringency are, at worst, minimal.

- **Allowing warehouses to pay a mitigation fee in lieu of taking actions to reduce emissions resembles a pay-to-pollute system. SCAQMD must prioritize actual emission reductions over the mitigation fee. Additionally, SCAQMD must ensure custom WAIRE plans are, at minimum, as effective as the standard WAIRE menu.**

As proposed, warehouses that fail to earn enough points would have to pay a mitigation fee. This fee will help accelerate the purchasing and deployment of clean trucks and goods movement technologies. Further, the proposed ISR requires mitigation fee revenues to be spent locally where it was collected: in the communities near the warehouse. We support creating a new revenue stream to deploy clean vehicles and technologies. Similarly, we also support the requirement of spending this revenue in the areas surrounding the warehouse.

We are concerned, however, about the warehouses' ability to pay the mitigation fee in lieu of any emission reduction options. While the deployment of clean vehicles and technologies will reduce emissions, only concrete, localized actions will maximize community benefits. SCAQMD staff has emphasized that paying the mitigation fee in lieu of earning WAIRE points would be more expensive. While we appreciate these comments, the proposed rule does not address this concern adequately. Further, customized WAIRE plans, which warehouses can opt in to, should be just as effective as the standard WAIRE menu.

Lastly, we strongly disagree with the opponents' characterization of the mitigation fee as an illegal tax. The plain reading of Proposition 26 clearly allows the mitigation fee. Additionally, case law – including a case the United States Supreme Court refused to review, has upheld a similar mitigation fee. It is also worth noting the mitigation fee is entirely avoidable by earning WAIRE points.

- **WAIRE menu items should prioritize emission reductions rather than merely mitigate pollution exposure. The WAIRE menu should not include air filtration as an option.**

As currently proposed, installing air filtration systems are a WAIRE menu option. We believe, however, the WAIRE menu must prioritize actions that will reduce emissions rather than just masking it. While filtration systems will help reduce exposure to particulates in a building, that protection ceases once a person goes outside. Air filters do not reduce how much pollution is emitted into the air. Including filtration to be a WAIRE option, in essence, allows warehouses to take credit without controlling pollution. To be legally binding under the State Implementation Plan (SIP), the ISR cannot rely upon air filtration and must have measurable air pollution emission reductions. Lastly, the federal and state governments have made significant investments into school HVAC systems. Additional investment in filtration systems only dilutes the effect of the ISR.

The warehouse ISR, along with all Facility-Based Mobile Source Measurements, are important tools for cleaning Southern California's air. SCAQMD's socioeconomic analysis projects the ISR's particulate matter reductions alone will result in up to 40 fewer deaths, 600 fewer asthma attacks and up to 2,500 fewer lost workdays. Further, the warehouse ISR's public health benefits will save up to \$3.6 billion in public health costs. These public health benefits, coupled with the need to meet state and federal air quality legal requirements, justifies the warehouse ISR. These benefits also underscore the need for the strongest rule possible.

Sincerely,

A handwritten signature in black ink, appearing to read "Christopher Chavez", with a stylized flourish at the end.

Christopher Chavez
Deputy Policy Director

Cc:
Wayne Nastri, Executive Officer, SCAQMD
Ian McMillan, Planning and Rules Manager, SCAQMD
Victor Juan, Program Supervisor, SCAQMD