April 9, 2021

Chair William Burke and Governing Board Members
South Coast Air Quality Management District
21865 Copley Drive
Diamond Bar, California 91765-4178

Re: **OPPOSITION TO PROPOSED RULE 2305 (WAREHOUSE INDIRECT SOURCE RULE)**

Dear Mr. Burke and Governing Board Members,

Currently, there are pending changes concerning air quality regulation that are due to be voted on by you. As a business that relies on affordable warehouse space, we are deeply concerned what potential impacts Rule 2305 will have to our operating expenses. If Rule 2305 passes it will result in increased property taxes and consequently, higher overhead operating expenses creating economic hardship in an already difficult economic climate. Currently in our lease, we as the Tenant, are responsible for any resulting increases in taxes imposed through this new Rule.

We are very concerned about the potential negative impacts on the warehousing/logistics sector by the South Coast Air Quality Management District. We are reaching out to you today to encourage you to reconsider the implementation of Rule 2305. Although we are also concerned with improving the air quality in Southern California, this Rule could deeply hurt our business and effectively our employees.

In consideration of this, we believe this proposed rule is outside the authority of the local air district and it is not mission driven as it has no sunset date. Furthermore, it is poorly written, fails to understand the dynamics of the goods movement sector, and includes an arbitrary menu of options and credits. Furthermore, the rule has questionable projections on any actual emission reductions it will achieve. Additionally, it will impose significant administrative and mitigation expenses. As written, this rule is in essence a tax on the warehousing sector.

While we understand Rule 2305 is well intended, we believe it will cause significant harm to our business for the reasons mentioned above. As such, we respectfully request that you oppose Rule 2305, as the potential damages to our business, and businesses like ours, across Southern California could be economically devastating, particularly when considering the financial hardships many business owners are already experiencing due to COVID-19 related closures, delays and ordinances.

Thank you in advance for your time and consideration.

Signed:

Signature

4/9/21
Date

11620 Wilshire Blvd., Ste. 1000, Los Angeles, CA 90025

April 9, 2021

Chair William Burke and Governing Board Members
South Coast Air Quality Management District
21865 Copley Drive
Diamond Bar, California 91765-4178

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Thank you in advance for your time and consideration.

Signed:

DocuSigned by:
Michael Bonino Three Way Logistics, Inc. 4/9/2021
8231C1314A1343C...
Signature Date

SVF Flow Controls

April 9, 2021

Chair William Burke and Governing Board Members
South Coast Air Quality Management District
21865 Copley Drive
Diamond Bar, California 91765-4178

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Thank you in advance for your time and consideration.

Signed: *Wayne Ulanski*

Regards
Wayne
Wayne Ulanski, President
SVF Flow Controls

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April 14, 2021

Mr. Victor Juan, Program Supervisor
South Coast Air Quality Management District
21865 Copley Drive
Diamond Bar, California 91765

Subject: Opposition to Proposed Rule 2305 (Warehouse Indirect Source Rule)

Dear Mr. Juan:

I am writing to express WestRock's opposition to the South Coast Air Quality Management District's, (SCAQMD) Proposed Rule 2305. We operate three warehouses within the district located in La Mirada, Fontana, and Montebello that would be subject to the rule. As currently written, the rule would likely increase operating costs on our three warehouses by nearly one-million dollars annually. In total, these warehouse operations exceed 865,000 square feet and serve as a vital part of WestRock's supply chain which is integral to delivering essential, sustainable paper and packaging products to our customers.

WestRock is a global manufacturer of sustainable paper and packaging products with approximately 50,000 team members across more than 300 manufacturing facilities, design centers, research labs and sales offices throughout the world. In California, we employ 1,308 people across 15 facilities with a payroll exceeding $184 million. We pay $13.3 million in taxes annually and invest over $614 million through our supply chain network. Our essential products are used to ship and package food, beverages, health care, pharmaceutical, personal hygiene care, disinfectant products and other basic household supplies. As you know, the paper packaging industry was designated by the U.S. Department of Homeland Security's Cybersecurity and Infrastructure Security Agency as an essential critical infrastructure sector as part of the administration's Covid-19 response.

WestRock appreciates SCAQMD's efforts to reduce local and regional emissions and as one of North America's largest paper recyclers, WestRock has a long-standing commitment to innovation, environmental stewardship and sustainable business practices – they serve as the fiber of our company. However, Proposed Rule 2305, fails to consider the reality of the obligations requiring us, as warehouse operators, to shoulder the responsibility of reducing trucking emissions from which we have no control. Our business contracts with several trucking companies who utilize different models and configurations. We do not own these trucks and cannot control how these trucking companies operate their business.

• 2100 Yates Avenue • Montebello, CA 90040 •

WestRock looks forward to further discussions on this matter and commits to working with SCAQMD to advance our shared vision and environmental goals.

Respectfully,

Jeff Chalovich
Chief Commercial Officer and President
Corrugated Packaging

WestRock

Jeff.Chalovich@WestRock.com | www.westrock.com

cc: Governing Board Members

CALIFORNIA HYDROGEN BUSINESS COUNCIL

Hydrogen Means Business in California!

18847 Via Sereno
Yorba Linda, CA 92886
Phone: (310) 455-6095 | Fax: (202) 223-5537
info@californiahydrogen.org | www.californiahydrogen.org

April 15, 2021

Board of Directors
South Coast AQMD
21865 Copley Dr.
Diamond Bar, CA 91765

RE: CHBC Comments on Proposed Rule 2305 - Warehouse Indirect Source Rule

Dear Mr. Chairman and Members of the Board:

The California Hydrogen Business Council (CHBC)[1] appreciates the opportunity to comment on the SCAQMD's proposed Rule 2305 - Warehouse Indirect Source Rule (ISR).

The CHBC **supports** the proposed warehouse ISR rule and urges the Board to adopt the **most stringent alternative**. CHBC suggests a few changes to improve the effectiveness of the rule, discussed below.

The CHBC agrees with those in the environmental and EJ communities who have commented extensively about the health imperatives of a strong ISR rule. Indeed, the modern fuel cell industry was born out of the need to reduce air pollution in transportation and electricity production.

From a business standpoint, we believe that the proposed ISR sends a strong message to businesses around the world to invest in California, invest in reducing emissions in South Coast, and invest in improving zero-emission technology. And with that investment, to create jobs.

Towards those ends, the CHBC asks that the WAIRE menu be slightly modified to **remove** the one item that provides no emission reductions, nor provides infrastructure or support in any way for emission reductions - that item is indoor **air filtration**.

The CHBC believes that a SIP measure, like the ISR rule, must ensure that every element to meet emission reduction requirements do just that - reduce emissions. This is both a policy imperative and a federal requirement.

Only actual emission reductions or infrastructure that enables emissions reductions should generate credit toward compliance. SIP measures cannot provide emission reduction credit for masks or filtration. That is why the CHBC believes that allowing compliance credit in the WAIRE menu for installing air filtration is inappropriate. Every menu selection MUST reduce emissions or provide infrastructure support for emission reductions.

---

[1] The CHBC is comprised of over 100 companies and agencies involved in the business of hydrogen. Our mission is to advance the commercialization of hydrogen in the energy sector, including transportation, goods movement, and stationary power systems, to reduce emissions and dependence on oil**. The views expressed in these comments are those of the CHBC, and do not necessarily reflect the views of all of the individual CHBC member companies.** CHBC Members are listed here: https://www.californiahydrogen.org/aboutus/chbc-members/

The CHBC suggests other funding sources, like penalty dollars, are more appropriate for mitigation measures like air filtration at schools.

Secondly, CHBC recommends that the District provide **WAIRE points** for **onsite hydrogen generation**. For hydrogen use, part of the infrastructure piece is hydrogen supply. Indeed, in the last several years, drivers of hydrogen cell vehicles have seen what happens as production facilities go down for several reasons. The Governor's Office of Business and Economic Development (GO-Biz), for example, sees the resiliency and reliability of hydrogen supply to be of critical importance in addressing hydrogen infrastructure needs. Therefore, CHBC believes that providing WAIRE points for onsite hydrogen production is just as important as any of the other WAIRE menu infrastructure items.

Lastly, the CHBC wants to acknowledge the impressive work that went into developing this rule, and in particular, the creativity, and even brilliance by Ian MacMillan and the team that worked on proposed Rule 2305.

This rule may be the most important adopted by the District since the basin power plants were required to burn natural gas instead of fuel oil.

Implementation of the rule will certainly provide some challenges, and our industry can and will meet that challenge.

Sincerely,

William "Bill" Zobel
Executive Director
California Hydrogen Business Council

NAIOP
COMMERCIAL REAL ESTATE DEVELOPMENT ASSOCIATION
SoCAL CHAPTER

NAIOP
COMMERCIAL REAL ESTATE DEVELOPMENT ASSOCIATION
INLAND EMPIRE CHAPTER

April 15, 2021

Ian MacMillan, Assistant Deputy Executive Officer
Victor Juan, Program Supervisor
South Coast Air Quality Management District
21865 Copley Drive
Diamond Bar, CA 91765 Sent via Email

Re: Response to Comment Letters on Draft Rule 2305 and Draft Staff Report

Dear Mr. MacMillan and Mr. Juan:

As you are aware, the NAIOP SoCal and Inland Empire Chapters on March 2, 2021, transmitted a joint comment letter to the SCAQMD regarding PR 2305 and the Draft Staff Report, and, on our behalf, Ramboll highlighted technical concerns. Although comments can be made up to the time of the actual hearing on the rule, we did submit our comments early to accommodate the SCAQMD Staff request to do so. You also received letters from CalTax, and Holland & Knight which raised numerus other important issues that are vital to a full analysis of the rule.

Other than a brief, general overview presentation to the Mobile Source Committee, no responses to those comments have been received to date. We noted in the Second Draft Staff report that there were detailed responses to some prior comment letters, but not those sent in March. We appreciate that the March and subsequent comment letters regarding PR 2305 have been posted on the website, but that site also does not contain any responses to the comment letters.

We believe the serious issues raised in the NAIOP and other three letters should receive the same type of detailed response as was done in the Second Draft Staff report. That type of analysis is necessary to provide not only us, but the public and the Governing Board with the type of information needed to fully evaluate and intelligently analyze PR 2305.

Please advise us when we will receive the responses to the comments and we look forward to their receipt.

Sincerely,

Timothy Jemal
CEO, NAIOP SoCal

Robert Evans
Executive Director, NAIOP Inland Empire

Cc: Governing Board Members

SoCal Chapter Office: 918 E. Santa Ana Blvd., Santa Ana, CA 92701 Tel: (714) 550-0309 www.naiopsocal.org
Inland Empire Chapter Office: 25241 Paseo de Alicia, Suite 120, Laguna Hills, CA 92653 Tel: (951) 710-8768 www.naiopie.org

April 16, 2021

Chair Burke and Members of the Mobile Source Committee
South Coast Air Quality Management District
21865 Copley Drive
Diamond Bar, CA 91765

Re: Item No. 1 – Supporting adoption and strengthening of Warehouse Indirect Source Rule (Proposed Rules 2305 and 316)

Dear Chair Burke and Members of the Mobile Source Committee:

On behalf of the undersigned coalition of community and environmental organizations, we submit these comments in support of the warehouse indirect source rule with requests to adopt a strengthened rule. The Governing Board's adoption of Proposed Rules 2305 and 316 on May 7, 2021 will be the culmination of *six years* of agency work on a warehouse rule that will achieve necessary emissions reductions in the region. Together with the Air District's staff, we have spent thousands of hours participating in the process to develop a warehouse rule that is fair, inherently flexible, legally sound, and, importantly, long overdue. The Air District is required to use its legal and regulatory authority to deliver on its promise made years ago to adopt a warehouse facility-based measure that addresses "high-level, localized concentrations of pollutants" throughout the South Coast air basin.[1] Communities in the South Coast—who continue to suffer increasingly high levels of pollution from the freight industry every day—cannot afford any further delay.

[1] Health & Saf. Code, § 40440(b)(3).

Indeed, the warehouse industry has placed an unsustainable health burden on our neighborhoods and on current and future generations of children, pregnant mothers, and our elders and families for far too long. The Second Draft Socioeconomic Impact Assessment for the rule confirms that communities living within a half mile of a warehouse shoulder disproportionate harms, ranking in the 85th percentile of pollution burden statewide, in stark contrast to the rest of the region.[2] These communities also experience asthma and heart attack rates at much higher levels than the rest of the air basin.[3] And it is no coincidence that warehouse facilities continue to be overwhelmingly sited in low-income communities and communities of color—in fact, nearly *70 percent* of warehouse-adjacent communities in the South Coast are made up of people of color, and nearly 50 percent experience poverty.[4] The warehouse indirect source rule will provide effective and meaningful regulation of an industry that has prioritized its profits over our health time and time again. The public health benefits of the rule are significant, resulting "in 150 to 300 fewer deaths, 2,500 to 5,800 fewer asthma attacks, and 9,000 to 20,000 fewer work [days missed due to air pollution] from 2022-2031. Expected total discounted monetized public health benefits range from $1.2 to $2.7 billion over the compliance period."[5]

Industry continues its last minute and misleading opposition effort to this important, lifesaving rule. And these tactics come at a time when this industry, unlike many others, is thriving financially and expanding. The warehousing industry is now enjoying exploding profit levels as consumers increasingly rely on e-commerce during the COVID-19 pandemic.[6] Even as the pandemic has devastated our communities and continued to exacerbate the health inequalities of how poor air quality harms our communities, those with ownership stakes in the freight system are "raking in all the chips in the changing landscape brought on by the coronavirus crisis."[7] Fulfilling the promises the Air District made to advance a mandatory warehouse regulation is critical given the massive expansion of the industry.

Although industry representatives continue to push "near-zero" technologies in the rule, near-zero is often used as code for further investment in natural gas infrastructure that will perpetuate harm in frontline communities and keep the South Coast locked in the past. The final rule must prioritize zero-emissions investments, the only solution that will effectively address the air quality and health impacts caused by this industry. The final rule must also increase the proposed stringency to 0.005 WAIRE Points per WATT in order to achieve greater emissions

---

[2] South Coast Air Quality Management District, Second Draft Socioeconomic Impact Assessment for Proposed Rule 2305 – Warehouse Indirect Source Rule – Warehouse Actions and Investments to Reduce Emissions (WAIRE) Program and Proposed Rule 316 – Fees for Rule 2305 (Apr. 2021), at ES-2.

[3] *Id.*

[4] *Id.* at 5.

[5] *Id.* at ES-9.

[6] *See* Justin Ho, *As imports boom, warehouses fill up, and businesses face a storage shortage*, Marketplace (Oct. 1, 2020).

[7] Greg Cornfield, *Southern California industrial real estate market: What to know for 2021*, Commercial Observer (Feb. 3, 2021).

reductions and provide immediate relief to communities living near regulated facilities.

We appreciate your consideration of these comments, and the Air District staff's hard work on this critical regulation. We look forward to working together to help our region finally achieve clean air by bringing this rule over the finish line on May 7th.

Sincerely,

Michelle Ghafar
Regina Hsu
Adrian Martinez
Earthjustice

Sari Fordham
350 Riverside

Dean Toji
Environmental Justice Committee
Asian Pacific Policy & Planning Council

Mike Young
California League of Conservation Voters

Alma Marquez
Center for Community Action & Environmental Justice

Jesse Marquez
Coalition for a Safe Environment

Taylor Thomas
East Yard Communities for Environmental Justice

Sylvia Betancourt
Long Beach Alliance for Children with Asthma

Yasmine Agelidis
Los Angeles County Electric Truck & Bus Coalition

Heather Kryczka
Natural Resources Defense Council

Andrea Vidaurre
People's Collective for Environmental Justice

Susan A. Phillips
Robert Redford Conservancy for Southern California Sustainability
Pitzer College

Peter M. Warren
San Pedro & Peninsula Homeowners Coalition

Carlo De La Cruz
Sierra Club

Elliot Gonzales
Stop Fracking Long Beach

Joyce Xi
Union of Concerned Scientists

Sheheryar Kaoosji
Warehouse Worker Resource Center

cc:
Wayne Nastri
Executive Officer
South Coast Air Quality Management District
wnastri@aqmd.gov

Sarah Rees
Deputy Executive Officer
Planning, Rule Development & Area Sources
srees@aqmd.gov

Ian MacMillan
Planning and Rules Manager
South Coast Air Quality Management District
imacmillan@aqmd.gov

Victor Juan
Program Supervisor
South Coast Air Quality Management District
vjuan@aqmd.gov

From: Jacob Ruiz <jacobpruiz@gmail.com>
Sent: Thursday, April 15, 2021 7:40 PM
To: Angela Kim <akim@aqmd.gov>
Subject: Indirect Source Rule

Hello,

My name is Jacob and I am a concerned resident of Los Angeles. I can't make the public comment call tomorrow so I am emailing you today to urge the air district board to please support and consider a rule to regulate pollution from indirect sources. The warehouse indirect source rule has been pushed back and delayed for months, even though my community feels the effects of goods movement like truck traffic and warehouse operations around the clock, even through COVID 19.

This summer we had over 100 unhealthy air days for smog in the South Coast Region. The air district must be proactive in ensuring industry polluters are held accountable for their historical environmental damage to our communities. The South Coast Air Basin is home to some of the worst air pollution in the country, primarily caused by emissions from warehouses and the goods movement industry and you have the power to positively affect hundreds of thousands of lives.

Please rule on a strong ISR!

Thanks,

Jacob Ruiz

From: Shannon Labuschagne <labuschagne.shannon@gmail.com>
Sent: Friday, April 16, 2021 11:02 AM
To: Angela Kim <akim@aqmd.gov>
Subject: [EXTERNAL]Public comment

Hello,

I am emailing in my public comment. I would have given this comment in person, however, due to technical difficulties I was unable to remain on the call. Below is my comment concerning the Indirect Source Rule:

My name is Shannon and I'm a Los Angeles resident. I'm commenting today to voice my support for a strong indirect source rule and urge the board to do the same. I feel that the delay or dilution of the rule is something we cannot afford. We need an indirect source rule in its strongest form and application to help electrify warehouses, keep polluting trucks out of our communities, and address our incredibly serious air quality problems.

Since corporate factories are not people, they do not have to live through and experience the burdens of their pollutants. This burden is instead handed down to communities, disproportionally communities of colour, who have to live with the negative health impacts of factory transport pollution. Because of this, industries working in our city and in our community must be held responsible for their pollutants through regulation that improves accountability and transparency, placing a sense of urgency on industries to decrease pollution.

A strong indirect source rule will be a step in the right direction to achieving this. I urge the support and commitment of your office to this end.

Thank you,
Shannon Labuschagne

From: Lime V. [mailto:Limeaboutsomething@outlook.com]
Sent: Thursday, April 15, 2021 7:05 PM
To: Clerk of Board
Subject: [EXTERNAL]Public Comment for the Mobile Source Committee Meeting

Good Morning,

My name is Amy Vasquez and I am concerned that community voices are falling on deaf ears. Many of us have to work, children to care for, homework to complete, and yet we have all made time to be here to fight for our basic needs as humans. Please open your ears, hearts, and minds in order to provide us all your undivided attention.

Clean air is a basic human need and we have been subjected to the pollution dirty warehouses bring to our community for too long. The warehouse industry is highly unregulated and the time to end prioritizing profits over our health is now. As members of South Coast AQMD you should all be utilizing your authority to use an indirect source rule to reduce/eliminate the pollution caused by warehouses. Your support of the Warehouse ISR is critical to improving the air quality and health in the region. We all know that realistically the promise of warehouse jobs is temporary, the jobs that are currently available are dangerous, low wage, and often do not include much needed benefits. Allowing warehouses to continue to conduct business as is you are condemning us all to living conditions where the only option is poor health.

Please support a strong indirect source rule for all of us.

Thank you,

Amy Vasquez

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April 7, 2021

Chair William Burke and Governing Board Members
South Coast Air Quality Management District
21865 Copley Drive
Diamond Bar, California 91765-4178

Re: <u>OPPOSITION</u> TO PROPOSED RULE 2305 (WAREHOUSE INDIRECT SOURCE RULE)

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Thank you in advance for your time and consideration.

Signed:

April 21, 2021

Wayne Nastri
Executive Officer
South Coast Air Quality Management District
21865 Copley Drive
Diamond Bar, California 91765
wnastri@aqmd.gov

Dear Mr. Nastri:

This letter is in response to the Warehouse Indirect Source Rule (Proposed Rule 2305) and Fees for Rule 2305 (Proposed Rule 316).

Diesel pollution generated by transporting freight or cargo in the State continues to be the biggest contributor to the air toxics and criteria pollutants that affect everyone's quality of life. Communities near warehouses experience higher exposure to air pollution due to cumulative emissions from sources such as trucks, transport refrigeration units, and other freight equipment. The greater air pollution burden in these communities result in increased cases of asthma, hospitalizations, cancer, and even premature death related to heart and lung disease. Strategies for near-term emission reductions from freight facilities, such as the ones proposed in this rule, are especially needed to address the levels of ozone, and particulate matter that exceed National Ambient Air Quality Standards. Complementary mitigation strategies are needed at both the State and regional level to provide healthy air and to meet the 2023 and 2031 attainment deadlines. These strategies include the 2020 Mobile Source Strategy and Indirect Source Rules from air districts. The California Air Resources Board (CARB) supports the Draft Warehouse Indirect Source Rule (PR 2305) and Fees for Rule 2305 (PR 316) proposed by the South Coast Air Quality Management District (SCAQMD). The Warehouse Actions and Investments to Reduce Emissions (WAIRE) Program, created by these rules, represents an important action in addressing the region's air quality issues and minimizing the public health impacts that warehouse activities have on nearby communities that are disproportionately burdened by air pollution. CARB appreciates the hard work that SCAQMD put into developing the WAIRE Program. The WAIRE Program will be vital to protecting public health.

SCAQMD has clear authority under federal and California law to enact the WAIRE Program. The federal Clean Air Act explicitly permits any state to include an indirect source review program in its State Implementation Plan (SIP), 42 U.S.C. § 7410(a)(5)(A), and simply emphasizes that the United States Environmental Protection Agency (U.S. EPA) may not require a state to submit an indirect source review plan, even on new and modified facilities, see 42 U.S.C. § 7410(a)(5)(C). The indirect source review program is not limited to new or modified sources; rather it includes them, see 42 U.S.C. § 7410(a)(5)(D). Indirect source is broadly defined as any "facility, building, structure, installation, real property, road, or highway which attracts, or may attract, mobile sources of pollution," and regulation of such sources is appropriate to meet key public health standards. *See* 42 U.S.C. § 7410(a)(5)(C)&(D). Indeed, a commitment to create such programs is a key part of the Air Quality Management Plan SCAQMD is using to attain federal air standards. This commitment needs to be put in place to comply with federal law.

As a State law matter, moreover, Air Districts have sweeping authority and obligations to regulate "air pollution from all sources" other than vehicles, and "shall adopt and enforce rules and regulations to achieve and maintain" air quality standards. Health & Safety Code § 40000 & 40001. The federal Clean Air Act operates as a floor, not a ceiling, on State authority, meaning that this sweeping State law authority fills in any gaps that might exist under federal law. *See* 42 U.S.C. § 7416. The federal Clean Air Act neither preempts nor limits State authority to impose an indirect source review program on new, modified, or existing sources. Finally, California law explicitly permits Air Districts, including SCAQMD, to impose indirect source requirements such as the requirements that the district proposes here (Health & Safety Code §§ 40717.5, 40716). This includes fee authority (Health & Safety Code §§ 40522.5, 42311).

The WAIRE Program offers multiple pathways to accelerate the deployment of clean technologies, including the purchase of zero-emission heavy-duty vehicles and heavy-duty vehicles that will be significantly cleaner than existing heavy-duty vehicles. CARB's Advanced Clean Trucks and Low Oxides of Nitrogen (NOx) Omnibus regulations will require new 2024 and subsequent model heavy-duty vehicles that are sold in California to demonstrate compliance with increasingly stringent emission standards. The WAIRE Program encourages the purchase and use of such vehicles in the South Coast air basin, which would result in lower emissions in the basin, without increasing the number of new vehicles that must be offered for sale under CARB's regulations.

CARB supports the immediate adoption of the WAIRE Program and sees it as an important step to protect people throughout the region with an emphasis on nearby communities. Given the rapid advancement in clean technologies, we believe there are opportunities to strengthen the rule in the future. Although the proposed WAIRE Program requirements include many options to accelerate the deployment of cleaner technologies throughout the region, the proposed rules should be further strengthened in the future in order to maximize near-term emissions reductions through the deployment of zero-emission vehicles and build out supporting zero-emission infrastructure. A major strength of the rule is that it allows for a diverse set of actions that warehouse owners/operators can take to meet their compliance obligation. However, a more focused emphasis on deployment of zero-emission technologies is crucial in meeting public health commitments to communities in your region. Below we identify some opportunities for strengthening the rule in the future and anticipate further options will become available given the rapid emergence of commercial zero emission solutions:

- Placing an increased emphasis on utilization of zero-emission technologies over combustion alternatives is necessary to achieve air quality, toxic, and climate goals.
- Raising the stringency, to ensure facility compliance obligations are commensurate with the negative public health impacts these facilities have on nearby communities.

- Deploying zero-emission vehicles, equipment, and supporting fueling/charging infrastructure should be prioritized over other options that would not directly reduce emissions produced at facilities.
- Decreasing the threshold for facility size would require smaller facilities to comply with this rule, which would help reduce the cumulative impacts and exposure.

Integrating an implementation review to account for the accelerated commercialization of zero-emission technologies and increased infrastructure deployment over time. As CARB and SCAQMD continue their longstanding partnership in protecting communities throughout the South Coast Air Basin, we encourage you to remain steadfast in working to achieve the goal of clean air for all. Developing an indirect source rule like this is very challenging, and I applaud the SCAQMD for developing an ambitious program that guarantees public health improvements that will be felt by local communities. CARB stands by to support you in this endeavor, and look forward to the implementation of the WAIRE Program.

Sincerely,

Richard W. Corey, Executive Officer

cc: Sarah L. Rees, Ph.D., Assistant Deputy Executive Officer, South Coast Air Quality Management District
srees@aqmd.gov

Ian MacMillan, Planning and Rules Manager, South Coast Air Quality Management District
imacmillan@aqmd.gov

Victor Juan, Program Supervisor, South Coast Air Quality Management District
vjuan@aqmd.gov

April 9, 2021

Chair William Burke and Governing Board Members
South Coast Air Quality Management District
21865 Copley Drive
Diamond Bar, California 91765-4178

Re: <u>OPPOSITION</u> TO PROPOSED RULE 2305 (WAREHOUSE INDIRECT SOURCE RULE)

Dear Mr. Burke and Governing Board Members,

Currently, there are pending changes concerning air quality regulation that are due to be voted on by you. As a business that relies on affordable warehouse space, we are deeply concerned what potential impacts Rule 2305 will have to our operating expenses. If Rule 2305 passes it will result in increased property taxes and consequently, higher overhead operating expenses creating economic hardship in an already difficult economic climate. Currently in our lease, we as the Tenant, are responsible for any resulting increases in taxes imposed through this new Rule.

We are very concerned about the potential negative impacts on the warehousing/logistics sector by the South Coast Air Quality Management District. We are reaching out to you today to encourage you to reconsider the implementation of Rule 2305. Although we are also concerned with improving the air quality in Southern California, this Rule could deeply hurt our business and effectively our employees.

In consideration of this, we believe this proposed rule is outside the authority of the local air district and it is not mission driven as it has no sunset date. Furthermore, it is poorly written, fails to understand the dynamics of the goods movement sector, and includes an arbitrary menu of options and credits. Furthermore, the rule has questionable projections on any actual emission reductions it will achieve. Additionally, it will impose significant administrative and mitigation expenses. As written, *this rule is in* essence a tax on the warehousing sector.

While we understand Rule 2305 is well intended, we believe it will cause significant harm to our business for the reasons mentioned above. As such, we respectfully request that you <u>oppose</u> Rule 2305, as the potential damages to our business, and businesses like ours, across Southern California could be economically devastating, particularly when considering the financial hardships many business owners are already experiencing due to COVID-19 related closures, delays and ordinances.

Thank you in advance for your time and consideration.

Signed:

Signature | Date: APRIL 9, 2021

April 9, 2021

Chair William Burke and Governing Board Members
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Thank you in advance for your time and consideration.

Sincerely,

Bob Niedbalski

Bob Niedbalski
Executive Vice President
Paige Electric Co. L.P.
16110 Manning Way
Cerritos, CA 90703

April 9, 2021

Chair William Burke and Governing Board Members
South Coast Air Quality Management District
21865 Copley Drive
Diamond Bar, California 91765-4178

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Thank you in advance for your time and consideration.

Sincerely,

Mark Ahlers
Engineering Manager
Paige Electric Co. L.P.
16110 Manning Way
Cerritos, CA 90703

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April 22, 2021

VIA EMAIL

Mr. Ryan Banuelos (rbanuelos@aqmd.gov)
Planning/CEQA
South Coast Air Quality Management District
21865 Copley Drive
Diamond Bar, CA 91765

Mr. Victor Juan (vjuan@aqmd.gov)
Planning, Rule Development and Area Sources
South Coast Air Quality Management District
21865 Copley Drive
Diamond Bar, CA 91765

RE: Comments on Proposed Rule 2305 – Warehouse Indirect Source Rule – Warehouse Action and Investments to Reduce Emissions Program (WAIRE)

Dear Mr. Banuelos and Mr. Juan:

We appreciate the opportunity to submit comments on the South Coast Air Quality Management District's ("SCAQMD") Proposed Rule 2305 – Warehouse Indirect Source Rule – Warehouse Actions and Investment to Reduce Emissions (WAIRE) Program (the "Proposed Rule"). Scopelitis, Garvin, Light, Hanson & Feary is the nation's leading transportation-focused law firm, and our clients include motor carriers, brokers, and warehouse operators that operate in interstate and intrastate commerce in California and nationwide and which regularly pick up from, and deliver to, warehouses in the SCAQMD. While we share many of the same concerns about the Proposed Rule expressed by the California Trucking Association, we specifically write to underscore the concern the Proposed Rule would be preempted under 49 U.S.C. § 14501.

Summary of the Rule As It Pertains to Trucking

Although the Proposed Rule applies directly to operators and owners of warehouses, SCAQMD has found that trucks delivering goods to and from warehouses contribute "[t]he majority of emissions associated with warehouses."[1] The Proposed Rule's purpose is to reduce local and regional NOx and PM emissions, and the Proposed Rule is founded on the premise that "[t]rucks delivering or picking up goods from a warehouse are a proxy for total activity and emissions related to a warehouse."[2] The premise is inextricably embedded in the calculation of a warehouse's WAIRE Points Compliance Obligation, which is determined, in part, by the number of truck trips to a facility in a given year.[3] Finally, the first two actions or investments listed in the Proposed Rule's menu for earning WAIRE points are: 1) the acquisition of zero emissions ("ZE")/near zero emissions ("NZE") trucks in a warehouse operator's fleet; and 2) the number of ZE/NZE truck visits.[4]

The Proposed Rule Would Likely Be Preempted Under 49 U.S.C. § 14501

As part of its deregulation of the trucking industry, Congress enacted a provision in the Federal Aviation Administration Authorization Act of 1994 ("FAAAA") to "pre-

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[1] Victor Juan *et al.*, Second Draft Staff Report ("Report"), Proposed Rule 2305 – Warehouse Indirect Source Rule – Warehouse Actions and Investments to Reduce Emissions (WAIRE) Program and Proposed Rule 316 – Fees for Rule 2305, April 2021, at 6. The Report also notes that up to 40% of warehouse operators may also be motor carriers, operate a fleet of trucks. *Id*. at 44, n. 64.

[2] *Id*. at 35.

[3] Proposed Rule, § (d).

[4] *Id*. at Table 3.

empt state trucking regulation."[5] Modeled on deregulatory legislation enacted for the aviation industry, Congress provided that "[A] State … may not enact or enforce a law, regulation or other provision … related to a price, route, or service of any motor carrier … with respect to the transportation of property."[6] As with the Maine law impacting delivery services in *Rowe*, the Proposed Rule would likely be preempted.

The Court has held that under the FAAAA: 1) a state law is preempted if it has a connection with or reference to motor carrier prices, routes, or services; 2) preemption can occur even if the state law's effect is only indirect; 3) it makes no difference whether the state law is consistent or inconsistent with federal laws; and 4) preemption occurs, at least, where a state law has a significant impact on Congress's deregulatory and preemption-related objectives.[7] The Proposed Rule meets this criteria.

In *Rowe*, the Court struck down a Maine law that required tobacco retailers to use delivery services that followed particular delivery procedures. While the Court "concede[d] that the regulation here is less 'direct' than it might be, for it tells *shippers* what to choose rather than *carriers* what to do," the Court still found that the law created a connection with motor carrier services, because those services made up a substantial portion of all delivery services.[8] The Proposed Rule similarly recognizes truck deliveries are a substantial portion of the emissions to be curtailed and the first two options for earning WAIRE points either (i) regulates warehouse operators in their capacity as fleet operators (i.e., motor carriers) or (ii) tells warehouse operators to choose motor carriers that utilize ZE/NZE vehicles.[9] In either instance, the result is the regulation dictating that motor carriers provide their services using equipment that "differ[s] significantly from [otherwise lawful equipment] that, in the absence of

[5] *Rowe v. New Hampshire Motor Transport Ass'n*, 552 U.S. 364, 368 (2008).

[6] 49 U.S.C. § 14501(c)(1).

[7] *Rowe*, 552 U.S. at 370-71 (citing *Morales v. Trans World Airlines, Inc.*, 504 U.S. 374 (1992) (internal quotation marks omitted)).

[8] *Id*. at 371-72.

[9] In neither instance is the Proposed Rule a generally applicable law, because it does not affect motor carriers "solely in their capacity as members of the general public." *Id*. at 375.

the regulation, the market might dictate."[10] Given Congress's overarching goal in passing the deregulatory provision was to "ensure transportation rates, routes, and services that reflect 'maximum reliance on competitive market forces,' thereby stimulating 'efficiency, innovation, and low prices,' as well as 'variety' and 'quality,'" the Proposed Rule would significantly frustrate Congress's objectives.[11]

What the Court's jurisprudence makes clear is that state law cannot require warehouses to do what the state cannot directly do itself. The Report anticipates that warehouse operators will contract with motor carriers to take into account the Proposed Rule by requiring ZE or NZE truck visits, resulting in a de facto requirement for motor carriers to use ZE or NZE trucks in lieu of trucks that are otherwise legally operable.[12] In addition to requiring the use of equipment that market forces do not currently support, the elevated cost of ZE and NZE trucks will undoubtedly cause motor carriers to increase prices in order to recoup the required additional investment. And although the Report recognizes that Class 8 trucks transporting goods to and from warehouses covered by the Proposed Rule can operate nationally,[13] there is no discussion about how a requirement for motor carriers to use ZE or NZE trucks will impact the motor carrier's national routes and networks in light of charging station scarcity and battery range restrictions. It is far too speculative to assume that interstate trucks will not be range-bound and/or subject to frequent service disruptions in order to re-charge trucks – precisely the type of state law impact on motor carrier routes and services that the FAAAA was intended to protect against.

SCAQMD cites the California Health and Safety Code as the statutory authority for the Proposed Rule. While we have no reason to doubt the Proposed Rule is being considered to further important public health and safety goals, there is no public health exception to FAAAA preemption.[14] If the Court could find no such exception

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[10] *Id*. at 372.

[11] *Id*. at 370 (quoting *Morales*, 504 U.S. at 378).

[12] Report, at 45.

[13] *Id*. at 43.

[14] *Id*. at 375 ("The Act says nothing about a public health exception.")

for a law aimed to protect against sales of cigarettes to minors, it seems inconceivable the Court would find an exception here.

Conclusion

Thank you for the opportunity to express our concerns that the Proposed Rule, by indirectly regulating motor carriers, is likely preempted under federal law.

Very truly yours,

/s/ Gregory M. Feary
/s/ Shannon M. Cohen
/s/ Prasad Sharma

04/28/2021

Ian MacMillan
Victor Juan
South Coast Air Quality Management District
21865 Copley Drive
Diamond Bar, California 91765-4178
Sent Via Email: imacmillan@aqmd.gov / vjuan@aqmd.gov

Subject: Comments on Proposed Rule 2305 (Warehouse Indirect Source Rule)

Dear Mr. MacMillan:

DCG Fulfillment opposes the adoption of Rule 2305 (Indirect Source Rule). Warehouses such as ours are integral to the Southern California logistics industry. The logistics industry played a crucial role in the response to the COVID-19 pandemic—not only in the distribution of medical supplies, vaccines, and equipment but also in delivering goods to a public that has become increasingly dependent on e-commerce. We remained open during the pandemic ensuring the supply chain was not broken and provided an income to all our Employees despite the challenges and dramatically increased costs to our company to keep them safe during the pandemic. This financial burden has compounded the challenges companies such as ours are facing having worked to support our employees to the "living wage" of $15 per hour. This of course is a burden many of our competitors do not have to face as they reside in states outside of California. We love our state being life-long Employers in California and are not looking to be financially pushed out as our families all live here. However, we are not sure where these extra funds will be able to come from as we already work with very thin margins in our industry.

The District's proposed ISR seems to be a misguided policy during the COVID-19 pandemic. The District is pursuing a regulation targeting a sector that serves as a lifeline to our region and the nation and is deemed essential by federal and state governments. Under the current draft rule, reporting obligations begin only 60 days from rule adoption. The substantive WAIRE Points obligations will commence as soon as July 2021.

The following further comments are provided in response to the District's Proposed Rule 2305:

1. This rule would impose additional/permanent costs on warehouses of approximately $.90 per square foot. This extra cost would amount to targeting a specific essential industry with $1 billion in annual fees during the worst possible time and while responding to the pandemic's challenges on behalf of our nation.

2. It is not feasible to comply with the ISR due to the following:
    a) The proposed rule requires warehouses to control truck fleets and decrease truck emissions. Yet, we as warehouse operators are not able to accomplish this task.
    b) Our Warehouse has no control over how truck engines are manufactured.
    c) Our Warehouse does not own truck fleets, nor do we control what type of trucks shipping companies purchase.
    d) Our Warehouse does not control which trucks come to warehouses, when they arrive, where they come from, or any other variables related to truck trips.
3. The technology is not available to accomplish items on the WAIRE menu. For example, there are no heavy-duty electric trucks available that are viable from a technology and/or economically reasonable standard.
4. Warehouses have been deemed to be essential businesses by the State for important reasons including:
    a) The approximately 18 million people who live in Southern California rely on warehouses as an integral part of the goods movement system to get them the items they need to survive, like food, medical supplies, clothes etc.
5. This rule creates tremendous uncertainty in the economy as the full negative impact of this ISR is not known.
    a) Uncertainty should not be created in this critical, essential business sector, especially considering the current economic downturn/unemployment crisis associated with the COVID-19 pandemic.
6. Warehouses provide a broad range of jobs for people of every level of education and skillset. Warehouses and the logistics industry offer jobs that lead to upward ability. This job creation is a socioeconomic benefit that the proposed ISR's onerous costs would threaten.
7. The proposed ISR seeks to "indirectly" regulate the trucking industry through the Warehouse industry. The District should publicly explain how it has the jurisdiction/authority to regulate a mobile source that is such an integral part of interstate commerce as the trucking industry.

Thank you for your attention to these comments. Please include these comments as part of the official record for Proposed Rule 2305 (Warehouse Indirect Source Rule) so that all SCAQMD Board Members may have the opportunity to review the above.

Respectfully,

Jim Jennison
Owner and CEO
DCG Fulfillment

Cc: Governing Board Members

April 23, 2021

Mr. Ian MacMillan
Mr. Victor Juan
South Coast Air Quality Management District
21865 Copley Drive
Diamond Bar, CA 91765-4178

Sent Via Email: imacmillan@aqmd.gov / vjuan@aqmd.gov

Subject: Comments on Proposed Rule 2305 (Warehouse Indirect Source Rule)

Dear Messrs. MacMillan and Juan,

Pactiv Evergreen has serious concerns regarding the adoption of Rule 2305 (Indirect Source Rule). This proposed rule would be extremely costly for our company to implement at our warehouse in San Bernardino. We do not own our trucking fleet, and the mitigation measures offered in the proposed rule are beyond our control and would not reduce the company's fee exposure.

Pactiv Evergreen is the largest manufacturer and distributor of food and beverage packaging in North America with a diversified mix of customers, including restaurants, foodservice distributors, supermarkets, food and beverage producers, food packers and processors. We have seven manufacturing and warehousing facilities throughout California with over 1,100 employees. **Our San Bernardino distribution center (DC) is large enough to fall under this proposed rule.** This DC is used to distribute essential foodservice items across California, Nevada, Arizona, Utah, Oregon and Washington.

Pactiv Evergreen believes the District's proposed ISR is targeting a sector that has been deemed essential by federal and state governments and serves as a lifeline to the region and the nation. Under the current draft rule, reporting obligations begin only 60 days from rule adoption. The substantive WAIRE Points obligations will commence as soon as July 2021.

The threat of these potentially enormous fees and/or cost of mitigation measures will force us to consider other options, including potentially moving to a new location outside of the South Coast authority.

Additionally:

- Based on a calculation of ~$.90 per square foot, the District's Proposed Rule 2305 would impose additional annual costs on our warehouse of over three-quarters of a million dollars during the worst possible time and while responding to the pandemic's challenges on behalf of our nation. Beyond just our warehouse, we understand that this extra cost would equate to an estimated $1 billion each year for the all warehouses in the South Coast area.
- The proposed rule requires our warehouse to control truck fleets and decrease truck emissions. However, we do not own our truck fleet nor can we regulate what type of trucks our shipping companies purchase. We certainly do not have the power to mandate how truck engines are manufactured. Plus, we understand that "green" trucks are in short supply.

- The technology is not available to accomplish items on the WAIRE menu. There are no heavy-duty electric trucks that are viable from a technology and/or economically reasonable standard to service our DC.
- Warehouses are deemed essential businesses by the State for important reasons including distribution of essential goods across the region.
- This rule creates tremendous uncertainty for the company as the full negative impact of this ISR is not known. And, uncertainty should not be created in this critical, essential business sector, especially considering the current economic downturn/unemployment crisis associated with the COVID-19 pandemic.

Finally, it appears that the proposed ISR seeks to “indirectly” regulate our trucking service providers through the fees that would be collected from our warehouse/distribution center. We would like to know what authority the District has to regulate a mobile source that is such an integral part of interstate commerce as the trucking industry.

Thank you for your attention to these comments. Please include these comments as part of the official record for Proposed Rule 2305 (Warehouse Indirect Source Rule) so that all SCAQMD Board Members may have the opportunity to review the above.

Respectfully,

Michael J. King

Michael J. King
CEO

Cc: Governing Board Members

UNITED

Averil M. Edwards
Managing Counsel – Environmental, Health & Safety

April 23, 2021

Via Email

South Coast Air Quality Management District
Clerk of the Boards: cob@aqmd.gov
Mr. Victor Juan: vjuan@aqmd.gov

Re: United Airlines Comments on SCAQMD's Proposed Rules 2305 and 316 Warehouse Indirect Source Rule – Warehouse Actions and Investments to Reduce Emissions (WAIRE) Program & Associated Fees

Dear Mr. Juan:

United Airlines, Inc. (United) appreciates the opportunity to submit comments regarding the South Coast Air Quality Management District (SCAQMD) Proposed Rule 2305, a warehouse indirect source rule. United previously submitted comments on March 2, 2021, to an earlier version of Proposed Rule 2305 dated January 15, 2021. In addition to its previously submitted comments, United would like to provide the following additional feedback to SCAQMD regarding Proposed Rule 2305. Airlines for America (A4A) will also be submitting comments to SCAQMD on behalf of its members. United supports and incorporates by reference the A4A comments.

As indicated in our initial March 2 comment letter, United operates a cargo warehouse building at Los Angeles International Airport (LAX), pursuant to a lease agreement with Los Angeles World Airports (LAWA). United's LAX warehouse building has 100,000 square feet of indoor floor space. It is currently used for cargo warehousing and other aviation activities by United Cargo and other United operational groups, and therefore would be subject to the Proposed Rule as currently drafted. The following sets forth the reasons why United does not believe that SCAQMD has the legal authority to promulgate this rule as it applies to airlines and existing warehouses.

1. The Clean Air Act's indirect source provision does not authorize the SCAQMD's regulation of existing warehouses and distribution centers.

The SCAQMD lacks the legal authority to adopt an indirect source rule for existing air cargo warehouses located at airports. The SCAQMD's Draft Staff Report prepared for the proposed rule relies upon CAA section 110(a)(5)(A)(i) as providing the authority for states to include indirect source review programs as part of their state implementation plans. However, CAA section 110(a)(5)(D) defines an "indirect source review program as "the facility-by-facility review of indirect sources of air pollution, including such measures as are necessary to assure, or assist in assuring, that a *new or modified* indirect source will not attract mobile sources of air pollution, the emissions from which would cause or contribute to air pollution concentrations." (Emphasis added.)

The CAA limits the scope of an indirect source emission control measure to only those directed at new or modified indirect sources. Proposed Rule 2305 violates the acceptable scope of an indirect source review program under the plain language of the CAA by imposing obligations on existing, as opposed to new or modified warehouses. The Draft Staff Report asserts that "the authority for air districts to set emission reduction targets from indirect sources was confirmed by the [Ninth Circuit] in *NAHB v. San Joaquin Valley UAPCD* (9th Cir. 2020) 627 F.3d 730." The SCAQMD's reliance on *NAHB* is misplaced. The rule at issue in *NAHB* involved the regulation of emissions from nonroad vehicles at facilities *undergoing construction*. Such facilities are inherently either new or modified as a result of the construction activity. The court in *NAHB* did not consider whether a purported indirect source review program seeking to regulate existing facilities that had not undergone any construction activity was permissible under the CAA. As such, the SCAQMD cannot use the NAHB case as precedence for allowing Proposed Rules 2305 and 316.

2. The regulation of aviation activities under Proposed Rules 2305 and 316 is preempted under the Airline Deregulation Act (ADA) and other federal statutes.

As stated in our previous comment letter, the Federal Aviation Act and the ADA preempt the Proposed Rule's regulation of air cargo warehouse operations. Not only are air cargo activities conducted at United's LAX warehouse, but also aircraft maintenance training and cabin cleaning provisioning. These uses underscore that warehouses operated by airlines are subject to the ADA, which preempts state requirements related to prices, routes, or services of an air carrier. 49 U.S.C. § 41713(b)(1). SCAQMD is impermissibly seeking to restrict United's air transportation services by requiring United to either change its operations to comply or pay a mitigation fee.

3. Proposed Rules 2305 & 316 are unnecessarily duplicative of, and potentially contradictory to, existing and forthcoming regulations requiring a transition to zero-emission (ZE) trucks.

In June 2020, the Office of Administrative Law approved the California Air Resources Board's (CARB) Advanced Clean Trucks (ACT) regulation. The ACT regulation imposes zero emission vehicle sales requirements on truck manufacturers and has a one-time reporting requirement for large entities and fleets. The stated purpose of imposing the reporting requirement is to obtain details about individual fleet operations in order to drive future measures that would "ensure that fleets purchase available ZE trucks and place them in service where suitable to meet their needs."[1] In addition, by 2035, truck manufacturers truck sales will be required to be 55% ZE for Class 2b-3 and 75% ZE for Class 4-8.

Proposed Rule 2305's WAIRE menu allows warehouse owners and operators to earn WAIRE compliance points by implementing very similar actions to those that will eventually be necessitated by the ACT regulation. Where warehouses and truck fleets are operated by the same entity, the rule could have the benefit of accelerating the transition to ZE trucks, but this will not be the case for entities like United. Due to a lack of feasible emissions reduction options for earning WAIRE compliance points through their operations, operators like United ***<u>who do not own</u>***

[1] CARB, Advanced Clean Trucks Fact Sheet, June 25, 2020.

<u>or operate the fleets traveling to and from their facilities</u> will only be able to pay mitigation fees to comply. According to the Draft Staff Report, those fees will be used to establish a mitigation program to provide funding to truck operators towards the purchase and installation of ZE charging or hydrogen fueling infrastructure. This will essentially lead to warehouse operators funding the transition towards ZE trucks by fleet owners/operators who would already be subject to future CARB ZE truck requirements. For entities like United, the rule does not provide any measurable reduction in emissions and just shifts the burden and associated costs from the responsible entity to another that has no control over the activities with resulting air emissions.

Finally, the United States Environmental Protection Agency has stated that the indirect source rule at issue in the *NAHB* case "does not qualify for emission reduction credit for purpose of an attainment or progress demonstration" [ie, SIP revision] due to enforceability concerns (e.g., provisions allowing developers to pay a fee instead of implementing on-site pollution mitigation measure). *See* 86 Fed. Reg. 11484 (Feb. 25, 2021). Yet, SCAQMD references in its Preliminary Draft Staff Report the need to attain federal air quality standards as one of the primary drivers for these regulations. The fact that Proposed Rules 2305 and 316 will not qualify for emissions reduction credit in any attainment plan further demonstrates it would be inadvisable for the District to adopt these regulations given its questionable legal authority.

* * * *

Thank you for your consideration of these comments. Please contact me at averil.edwards@united.com with any questions.

Regards,

Averil Edwards

Averil Edwards

EDF
ENVIRONMENTAL
DEFENSE FUND
Finding the ways that work

SOUTH COAST AQMD
CLERK OF THE BOARDS
21 APR 22 P5:06

April 22, 2021

Chair Burke and members of the mobile source committee
South Coast Air Quality Management District
2186 Copley Drive
Diamond Bar, CA 91765

Re: Supporting adoption and strengthening of Warehouse Indirect Source Rule (Proposed Rules 2305 and 316)

Dear Chair Burke and members of the mobile source committee:

Environmental Defense Fund (EDF) writes you today to support the warehouse indirect source rule. As you are aware, the air quality in the South Coast Air District is amongst the worst in the country. One of the key contributors of this air pollution is from the use of diesel trucks and other heavy duty equipment operating at or near warehouses, or trucks that are delivering goods to and from these facilities.

Warehouses are an important focus for pollution reduction efforts in part because they tend to act as "hot spots" for local air pollution. The Second Draft Socioeconomic Impact Assessment for the rule confirms that communities living within a half mile of a warehouse shoulder disproportionate harms, ranking in the 85th percentile of pollution burden statewide, in stark contrast to the rest of the region. EDF's own analysis confirms the disproportionate nature of warehouse pollution on low income communities and communities of color. Simply put, warehouses attract vehicle traffic in a more concentrated manner, and emissions in neighborhoods with warehouses are significantly higher than in other neighborhoods. The communities around these warehouses are nearly 70 percent people of color and nearly 50 percent experience poverty, contributing to the fact that warehouses and disadvantaged communities tend to be co-located.

As proposed, the Warehouse Indirect source rule (ISR) creates the opportunity to drive the deployment of clean energy technology, including zero emissions medium and heavy duty vehicles and renewable energy generation equipment across Southern California. The ISR incents companies who own and utilize these facilities to pursue as many cost efficient emissions reductions opportunities as possible to convert their operations to zero emissions.

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New York, NY / Austin, TX / Bentonville, AR / Boston, MA / Boulder, CO / Raleigh, NC
Sacramento, CA / San Francisco, CA / Washington, DC / Beijing, China / La Paz, Mexico

Recent studies by EDF and partners evaluate the market readiness of zero emissions vehicles and find nearly 125 models of vehicles either announced or in production[1] and document the significant cost benefits associated with pairing electric truck deployments with on-site energy generation and storage.[2]

Of course, the proposed indirect source rules are not a silver bullet – there will need to be several additional policy reforms and market transformations required, both local and statewide in nature. The Board should pursue this rule however because it can play a critical role in making people's lives better from improved air quality.

We thank you for your leadership on this issue and offer our support on the proposed rulemaking package.

Sincerely,

Michael Colvin
Director, Regulatory and Legislative Affairs,
California Energy Program
Environmental Defense Fund

Timothy O'Connor
Senior Director, Energy Program
Environmental Defense Fund

---

[1] EDF, ICCT, Propulsion Québec, "RACE TO ZERO: How manufacturers are positioned for zero emission commercial trucks and buses in North America" October 2020, available at: https://www.edf.org/sites/default/files/documents/Race%20to%20Zero-ICCT_EDF_PQ-FINAL.pdf

[2] GNA, "California Heavy-Duty Fleet Electrification Summary Report" March 2021, available at: http://blogs.edf.org/energyexchange/files/2021/03/EDF-GNA-Final-March-2021.pdf

QUIDEL

SOUTH COAST AQMD
CLERK OF THE BOARDS

21 APR 22 P4:50

April 8, 2021

Chair William Burke and Governing Board Members
South Coast Air Quality Management District
21865 Copley Drive
Diamond Bar, California 91765-4178

Re: **OPPOSITION TO PROPOSED RULE 2305 (WAREHOUSE INDIRECT SOURCE RULE)**

Dear Mr. Burke and Governing Board Members,

Currently, there are pending changes concerning air quality regulation that are due to be voted on by you. As a business that relies on affordable warehouse space, we are deeply concerned what potential impacts Rule 2305 will have to our operating expenses. If Rule 2305 passes it will result in increased property taxes and consequently, higher overhead operating expenses creating economic hardship in an already difficult economic climate. Currently in our lease, we as the Tenant, are responsible for any resulting increases in taxes imposed through this new Rule.

We are very concerned about the potential negative impacts on the warehousing/logistics sector by the South Coast Air Quality Management District. We are reaching out to you today to encourage you to reconsider the implementation of Rule 2305. Although we are also concerned with improving the air quality in Southern California, this Rule could deeply hurt our business and effectively our employees.

In consideration of this, we believe this proposed rule is outside the authority of the local air district and it is not mission driven as it has no sunset date. Furthermore, it is poorly written, fails to understand the dynamics of the goods movement sector, and includes an arbitrary menu of options and credits. Furthermore, the rule has questionable projections on any actual emission reductions it will achieve. Additionally, it will impose significant administrative and mitigation expenses. As written, this rule is in essence a tax on the warehousing sector.

While we understand Rule 2305 is well intended, we believe it will cause significant harm to our business for the reasons mentioned above. As such, we respectfully request that you oppose Rule 2305, as the potential damages to our business, and businesses like ours, across Southern California could be economically devastating, particularly when considering the financial hardships many business owners are already experiencing due to COVID-19 related closures, delays and ordinances.

Thank you in advance for your time and consideration.

Signed:

Randall J. Steward
Chief Financial Officer

9975 Summers Ridge Road, San Diego, California 92121, USA Phone: 800.874.1517 quidel.com

Since 1982

April 16, 2021

Chair William Burke and Governing Board Members
South Coast Air Quality Management District
21865 Copley Drive
Diamond Bar, California 91765-4178

Re: Concerns related to Rule 2305 (Warehouse Indirect Source Rule)

Dear Mr. Burke and Governing Board Members,

We trust all is well. It has come to our attention that there are pending rules and regulations being considered by your office, specifically, Rule 2305, Warehouse Indirect Source Rule.

As we agree with improving the air quality in Southern California, we have been informed that this rule would affect affordable warehouse space in the area by increasing property taxes. Consequently, resulting in higher overhead operating expenses which would create economic hardship in an already difficult economic climate. Currently in our lease, we as the Tenant, are responsible for any increases in taxes.

As a business that relies on affordable warehouse space, we are reaching out to you today to share our concerns and financial concerns.

While we understand Rule 2305 is well intended, we respectfully request that you consider the potential affects to our business, and businesses like ours, particularly when considering the financial hardships many business owners are already experiencing due to COVID-19 related closures, delays, and ordinances.

Thank you in advance for your time and consideration.

Sincerely,

Sadaf Foods
2828-2840 South Alameda Street

2828 S. Alameda St., Los Angeles, California 90058
Tel: (323) 234-6666- Fax (323) 234-2447
e-mail: info@Sadaf.com

Cummins Logistics

6289 E. Slauson Ave.

Commerce, CA 90040

SOUTH COAST AQMD
CLERK OF THE BOARDS
21 APR 20 P3:33

April 20,2021

Chair William Burke and Governing Board Members

South Coast Air Quality Management District

21865 Copley Dr.

Diamond Bar, CA 91765-4178

Re: OPPOSITION TO PROPOSED RULE 2305 (WAREHOUSE INDIRECT SOURCE RULE)

Dear Mr. Burke and Governing Board Members:

Currently, there are pending changes concerning air quality regulation that are due to be voted on by you. As a business that relies on affordable warehouse space, we are deeply concerned what potential impacts Rule 2305 will have to our operating expenses. If Rule 2305 passes it will result in increased property taxes and consequently, higher overhead operating expenses creating economic hardship in an already difficult economic climate. Currently on our lease, we as the tenant, are responsible for any resulting increases in taxes imposed through this new Rule.

We are very concerned about the potential negative impacts on the warehousing/logistics sector by the South Coast Air Quality Management District. We are reaching out to you today to encourage you to reconsider the implementation of Rule 2305. Although we are also concerned with improving the air quality in Southern California, this Rule could deeply hurt our business and effectively our employees.

In consideration of this, we believe this proposed rule is outside the authority

of the local air district and is not mission driven as it has no sunset date. Furthermore, it is poorly written, fails to understand the dynamics of the goods movement sector, and includes an arbitrary menu of options and credits. Furthermore, the rule has questionable projections on any actual emission

reductions it will achieve. Additionally, it will impose significant administrative and mitigation expenses. As written, this rule is in essence a tax on the warehousing sector.

While we understand Rule 2305 is well intended, we believe it will cause significant harm to our business for the reasons mentioned above. As such, we respectfully request that you <u>oppose</u> Rule 2305, as the potential damages to our business, and businesses like ours, across Southern California could be economically devastating, particularly when considering the financial hardships many business owners are already experiencing due to COVID-19 related closures, delays and ordinances.

Thank you in advance for your time and consideration in this matter.

Signed:

David A. Cummins ____________________ 4/20/21 ____________________

David A. Cummins **Date**

April 19, 2021

Chair William Burke and Governing Board Members
South Coast Air Quality Management District
21865 Copley Drive
Diamond Bar, California 91765-4178

Re: OPPOSITION TO PROPOSED RULE 2305 (WAREHOUSE INDIRECT SOURCE RULE)

Dear Mr. Burke and Governing Board Members,

Currently, there are pending changes concerning air quality regulation that are due to be voted on by you. As a business that relies on affordable warehouse space, we are deeply concerned what potential impacts Rule 2305 will have to our operating expenses. If Rule 2305 passes it will result in increased property taxes and consequently, higher overhead operating expenses creating economic hardship in an already difficult economic climate. Currently in our lease, we as the Tenant, are responsible for any resulting increases in taxes imposed through this new Rule.

We are very concerned about the potential negative impacts on the warehousing/logistics sector by the South Coast Air Quality Management District. We are reaching out to you today to encourage you to reconsider the implementation of Rule 2305. Although we are also concerned with improving the air quality in Southern California, this Rule could deeply hurt our business and effectively our employees.

In consideration of this, we believe this proposed rule is outside the authority of the local air district and it is not mission driven as it has no sunset date. Furthermore, it is poorly written, fails to understand the dynamics of the goods movement sector, and includes an arbitrary menu of options and credits. Furthermore, the rule has questionable projections on any actual emission reductions it will achieve. Additionally, it will impose significant administrative and mitigation expenses. As written, this rule is in essence a tax on the warehousing sector.

While we understand Rule 2305 is well intended, we believe it will cause significant harm to our business for the reasons mentioned above. As such, we respectfully request that you oppose Rule 2305, as the potential damages to our business, and businesses like ours, across Southern California could be economically devastating, particularly when considering the financial hardships many business owners are already experiencing due to COVID-19 related closures, delays and ordinances.

Thank you in advance for your time and consideration.

Signed:

Ryan Howard
Senior Director, Real Estate & Facilities
HD Supply. Inc.

Carole Wayman

From: Clerk of Board
Sent: Wednesday, April 21, 2021 2:31 PM
To: Carole Wayman; Faye Thomas
Subject: FW: Rule 2305: We OPPOSE the Warehouse Indirect Source Rule

Follow Up Flag: Follow up
Flag Status: Flagged

From: Ryan Ole Hass [mailto:myvoice@oneclickpolitics.com]
Sent: Wednesday, April 21, 2021 2:19 PM
To: Clerk of Board <Front_PC@aqmd.gov>
Subject: Rule 2305: We OPPOSE the Warehouse Indirect Source Rule

Re: Rule 2305: We OPPOSE the Warehouse Indirect Source Rule

Dear Members of the AQMD Board:,

I am writing to you to express my opposition to the adoption of Rule 2305 (Indirect Source Rule).

Warehouses are integral to the Southern California logistics industry. The District's proposed ISR is a misguided policy during the COVID-19 pandemic. The District is pursuing a regulation targeting a sector that serves as a lifeline to our region and the nation and is deemed essential by federal and state governments.

The following reasons highlight our primary concerns with the rule:

1. This rule will impose additional/permanent costs on warehouses that could range in the millions of dollars – which will be passed onto consumers, employees, businesses and elsewhere. The logistics industry in complex and tied to many different industries – the costs associated with this rule will have a ripple effect in the system.

2. The ISR requires warehouses to control what types of trucks make up their fleet or what types of trucks come to their warehouses – which is not feasible. The trucks the SCAQMD is asking warehouses to purchase are not in existence nor can warehouses control what trucks come to their facilities.

3. The approximately 18 million people who live in Southern California rely on
warehouses as an integral part of the goods movement system to get them the items they need to survive, like food, medical supplies, clothes etc.

4. Warehouses provide a broad range of jobs for people of every level of education and skillset. Warehouses and the logistics industry offer jobs that lead to upward ability. This job creation is a socioeconomic benefit that the proposed ISR's onerous costs would threaten.

5. Proposition 26 specifically states that governing bodies can only impose a "fee" on a business if that owner will receive a direct benefit from it. Otherwise, it MUST be considered a tax. We strongly believe that the "mitigation fee" associated with this rule is a tax that should be brought before voters.

6. It is unclear how many emissions will actually be reduced as a result of this rule. We believe the district is imposing a burdensome regulation with high costs with little to show for it. This is not how regulations should be adopted.

For these reasons, and more, we OPPOSE Indirect Source Rules.

Sincerely,
Ryan Ole Hass
ryanolehass.re@gmail.com
757 Ocean Ave, Unit 306 Santa Monica, CA 90402-2655 Constituent

Carole Wayman

From: Clerk of Board
Sent: Wednesday, April 21, 2021 9:27 AM
To: Carole Wayman; Faye Thomas
Subject: FW: Rule 2305: We OPPOSE the Warehouse Indirect Source Rule

Follow Up Flag: Follow up
Flag Status: Flagged

From: Gregg Pawlik [mailto:myvoice@oneclickpolitics.com]
Sent: Wednesday, April 21, 2021 9:20 AM
To: Clerk of Board <Front_PC@aqmd.gov>
Subject: Rule 2305: We OPPOSE the Warehouse Indirect Source Rule

Re: Rule 2305: We OPPOSE the Warehouse Indirect Source Rule

Dear Members of the AQMD Board:,

I am writing to you to express my opposition to the adoption of Rule 2305 (Indirect Source Rule).

Warehouses are integral to the Southern California logistics industry. The District's proposed ISR is a misguided policy during the COVID-19 pandemic. The District is pursuing a regulation targeting a sector that serves as a lifeline to our region and the nation and is deemed essential by federal and state governments.

The following reasons highlight our primary concerns with the rule:

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3. The approximately 18 million people who live in Southern California rely on
warehouses as an integral part of the goods movement system to get them the items they need to survive, like food, medical supplies, clothes etc.

4. Warehouses provide a broad range of jobs for people of every level of education and skillset. Warehouses and the logistics industry offer jobs that lead to upward ability. This job creation is a socioeconomic benefit that the proposed ISR's onerous costs would threaten.

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6. It is unclear how many emissions will actually be reduced as a result of this rule. We believe the district is imposing a burdensome regulation with high costs with little to show for it. This is not how regulations should be adopted.

For these reasons, and more, we OPPOSE Indirect Source Rules.

Sincerely,
Gregg Pawlik
gpawlik@coldwellbanker.com
Coldwell Banker Company 15101 W Sunset Blvd. Pacific Palisades, CA 90272 Constituent

From: Mike Kelso <mikek@trimodal.com>
Sent: Wednesday, April 7, 2021, 1:47 PM
To: Paul Stroik
Cc: Victor Juan; Greg Owen
Subject: ZE Truck Cost

Mr. Stroik,

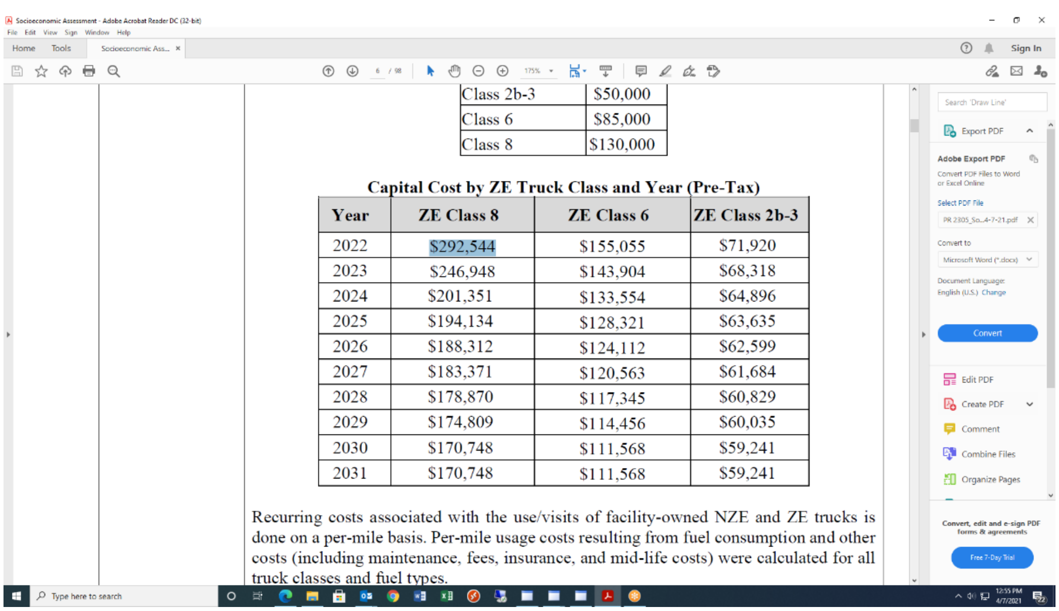
My comments are that the estimated cost for ZE truck is grossly understated. We have a quote that our cost will be in excess of $500,000 per Class 8 tractor. This quote is from a major OEM. We have applied for VW funding and plan to move forward with some EV tractors if we are awarded funding. But the cost will be much higher than presented in this report. 117-1

Our opinion is that it may take two new ZE tractors to do the workload of one diesel tractor. What if any consideration was taken to account for this possibility in the socioeconomic assessment? 117-2

Additionally as an operator in the jurisdiction we do not agree with the conclusions that little to no cargo diversion will occur. Many of our customers are already pursuing alternative ports of entry and this is before this estimated 30% increase in operating rents happens. 117-3

Regards,

Mike



Class 2b-3	$50,000
Class 6	$85,000
Class 8	$130,000

Capital Cost by ZE Truck Class and Year (Pre-Tax)

Year	ZE Class 8	ZE Class 6	ZE Class 2b-3
2022	$292,544	$155,055	$71,920
2023	$246,948	$143,904	$68,318
2024	$201,351	$133,554	$64,896
2025	$194,134	$128,321	$63,635
2026	$188,312	$124,112	$62,599
2027	$183,371	$120,563	$61,684
2028	$178,870	$117,345	$60,829
2029	$174,809	$114,456	$60,035
2030	$170,748	$111,568	$59,241
2031	$170,748	$111,568	$59,241

Recurring costs associated with the use/visits of facility-owned NZE and ZE trucks is done on a per-mile basis. Per-mile usage costs resulting from fuel consumption and other costs (including maintenance, fees, insurance, and mid-life costs) were calculated for all truck classes and fuel types.

Community Development Department
Planning Division
14177 Frederick Street
P. O. Box 88005
Moreno Valley CA 92552-0805
Telephone: 951.413-3206
FAX: 951.413-3210

March 16, 2021

Paul Stroik, Economist
Planning, Rule Development and Area Sources
South Coast Air Quality Management District
21865 Copley Dr.
Diamond Bar, CA 91765

Subject: Comments on the Draft Socioeconomic Impact Assessment for Proposed Rule 2305 – Warehouse Indirect Source Rule – Warehouse Actions and Investments to Reduce Emissions (WAIRE) Program and Proposed Rule 316 – Fees for Rule 2305

Dear Mr. Stroik:

In reviewing the Socioeconomic Impact Assessment, staff is concerned that the complexity of the modeling presented in the draft Socioeconomic Impact Assessment makes it difficult to determine the estimated cost of implementation of Proposed Rule 2305. The cost of implementation is of particular concern considering the number of warehouse projects within Moreno Valley that would be subject to the Rule. Of the estimated 470 potentially affected facilities in Riverside County, Moreno Valley has 48 warehouses on the "Potentially Subject to PR 2305" list (or approximately 10% of Riverside County's total facilities). PR 2305 will raise the cost of operating a warehouse in the SCAQMD region, which would impact economic and job growth in the Inland Empire and region. 118-1

The costs to administer and comply with both PR 2305 and PR 316 are also difficult to determine from the 19 different scenarios which were provided to show the range of potential compliance outcomes. For these scenario analyses, all 2,902 potentially affected facilities in the SCAQMD Region were modeled using their square footage and the applicable average trip generation rates to determine a compliance obligation. While average annual cost of PR 2305 has been provided by square footage, it is still difficult to determine the impact of the rule. The administrative costs (PR 316) are additional to the compliance actions in the scenarios and provided in the draft Socioeconomic Impact Assessment. The costs to meet compliance obligations of Rules 2305 and 316 appear to be underestimated, especially for the time allocated for reporting and financially impact a facility further. 118-2

Thank you for the opportunity to comment and we look forward to reviewing the forthcoming documents. If you have any questions or would like to discuss further, please feel free to contact Chris Ormsby, Senior Planner at (951) 413-3229, or by email at chriso@moval.org.

Sincerely,

Manuel A. Mancha
Community Development Director

c: Patty Nevins, Planning Official
Chris Ormsby, Senior Planner

From: Went, Cora M. <cwent@caltech.edu>
Sent: Friday, April 16, 2021 8:59 AM
To: Angela Kim <akim@aqmd.gov>
Subject: [SPAM]Indirect Source Rule

Hello,

My name is Cora Went and I am a Physics PhD student at Caltech and a member of the Sunrise Movement Los Angeles. I cannot make public comment at the Mobile Sources Committee meeting today, so I am emailing to urge the air district board to adopt a rule to regulate pollution from indirect sources.

The South Coast Air Basin is home to some of the worst air pollution in the country, primarily caused by emissions from warehouses and the goods movement industry. The air district needs strong and enforceable requirements to get the industry to curb their dangerous emissions and finally clean up pollution in all communities.

Please protect the health and safety of our communities by adopting a strong warehouse indirect source rule.

Sincerely,
Cora Went

--

Cora Went
Graduate Student, Physics
California Institute of Technology
Pronouns: She/Her/Hers
415.328.4093 | Website

April 23, 2021

Board Members
South Coast Air Quality Management District
21865 Copley Drive
Diamond Bar, California 91765

Re: Warehouse Indirect Source Rule (Proposed Rule 2305)

Dear Board Members,

We write to you in strong support of the approach taken by the Warehouse Indirect Source Rule, but we urge you to strengthen the rule. The Board should take advantage of the current economic landscape — record profits for warehouses, Southern California's dominant position in the national warehouse market, and an increasing structural shift in market power to warehouse companies — to pass the strongest-possible regulations of this deadly industry.

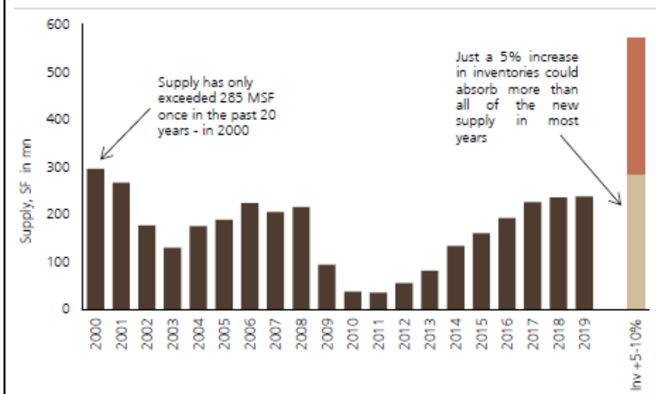
For far too long, poor communities and communities of color have subsidized the international supply chain with their own health. This is true not only in the Inland Empire, where (according to a recent headline), "new ecommerce warehouses crowd out rural communities,"[1] but also in the Southeast L.A. County Gateway Cities, in the San Fernando and San Gabriel Valleys, and elsewhere. Each warehouse facility may see thousands of trucks and vans each day, generating tons of harmful emissions.[2] Frontline communities pay with their health, and the entire region suffers from poor air quality.[3] The industry can afford the modest investment under the ISR. Further, the ISR must be strengthened to stay relevant.

<u>The U.S. warehouse industry is posting record results</u>

According to a recent analysis from *Logistics Management*, the warehouse industry "is not only withstanding the widespread economic impact of COVID-19, it's thriving. In fact: it's red hot."[4] At the start of the pandemic, warehouse was already "the darling of the real estate market," and a record 224 million square feet came online in 2020.[5] Still, it's not enough.

- E-commerce requires more warehouse space than traditional brick and mortar stores; one industry player estimates that for every shift of just one percentage point from brick and mortar to online retail, an additional 46 million square feet of warehouse space are needed.[6] In 2020 alone, the five-percentage-point shift suggests an additional 230 million square feet are needed.
- Further additional demand is expected as retailers who "were caught short-handed during the initial demand shock" increase inventory levels across the board. According to a Wells Fargo analysis, this factor could "drive 285–570 million square feet of incremental demand."[7]

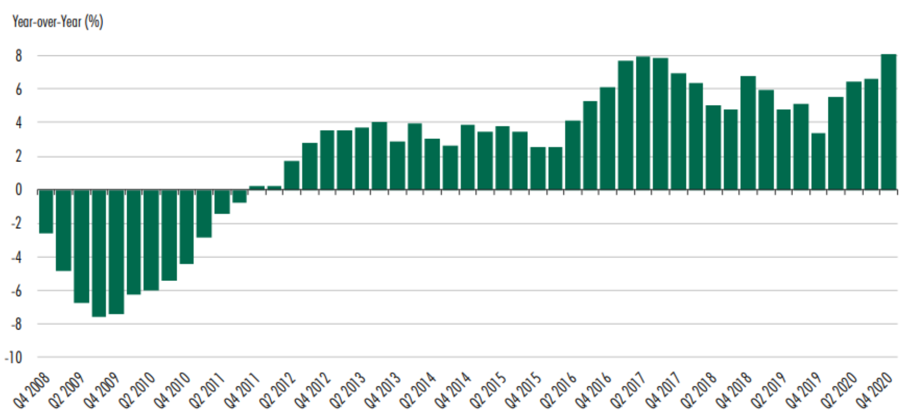
Figure 24: Inventories could increase by 5-10% in a bid for resiliency, creating potential demand of 285-570 MSF of aggregate incremental demand over each of the next 2-3 years



Source : CBRE, UBS Research

Strong demand for industrial real estate has led to a decade's worth of consistent — and increasing — rent growth.[8] Increased demand is expected to lead to a significant *further* increase in rents in 2021. Wells Fargo "anticipate[s] an acceleration" to "high-single-digit rent growth in primary industrial markets."[9]

STRONG FUNDAMENTALS LED TO SHARP RISE IN RENTS



Source: CBRE Econometric Advisors, Q4 2020.

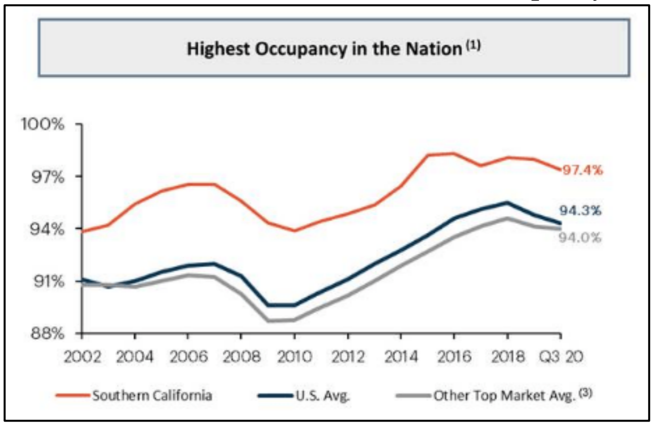
<u>Southern California warehouses are further outperforming</u>

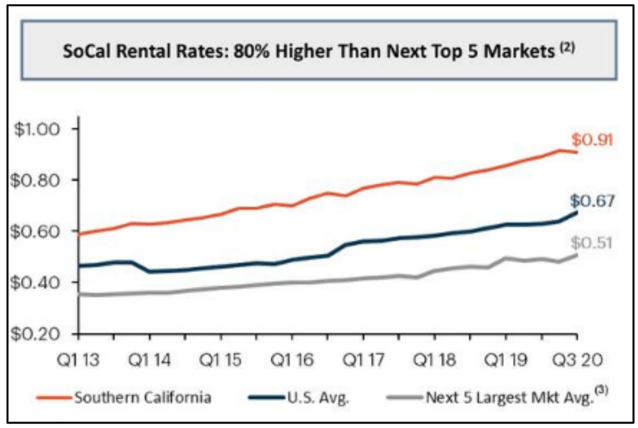
A 2021 headline in trade publication *Freight Waves* concluded, simply: "'Insatiable demand' drives Southern California warehouse boom."[10] According to the latest figures from CBRE, L.A. has the lowest vacancy rate (1.4 percent) in the nation.[11] (The Inland Empire is third with 1.9 percent.) The UCLA Anderson School Forecast reported in February 2021 that "industrial space sentiment has come roaring back."[12]

An analyst from CBRE explains Southern California's dominance:

> The industrial market had great fundamentals prior to Covid and now has better fundamentals in part due to Covid. In Southern California… we operate in a uniquely well-positioned geographical region with a deep business infrastructure in place, a huge densely populated area that has gigantic purchasing power, the most dominant ports in the U.S. to meet the demands of the customer and a very large inventory of industrial buildings to meet the needs of the companies storing and selling product. This is why retailers and business generally want to and need to be here.[13]

This dominance can be seen in occupancy and





rental rates[14]:

Indeed, even as analysts expect additional supply to come online in 2021, many believe Southern California "won't feel the reprieve as much" as the rest of the country because of such high demand.[15]

In February 2021, one industry CEO spoke bluntly about Southern California:

> There is nothing short of astounding what we see in terms of rents. We typically forecast our rents each quarter. The team seems to be doing it now weekly. I mean it's unbelievable. There's such demand for space and rents are growing so quickly… [Y]ou're talking about rents that literally changed $0.05 or $0.10 within the past month.[16]

This region is in fact so dominant that the industry is "unfazed" by the prospect of some marginal costs associated with the Indirect Source Rule, according to recent reporting.[17] "You keep expecting regulation to take a toll on business," the CBRE analyst observed about the ISR, "but when you look at the numbers and metrics," it doesn't.

<u>Industry leaders already invest in innovation</u>

An examination of market leader Prologis — "the bellwether of industrial real estate" according to a recent Wells Fargo report — provides insight into the fiscal health and stability of the industry.[18] Not only is the company currently showing record leasing activity, but a UBS analysis notes the company's "strong fundamentals for years to come."[19] Another analyst noted the company's consistent "outsized financial results," suggesting in the piece's headline that Prologis's biggest responsibility is to "Collect rent checks as Amazon.com's landlord."[20] Prologis has noted that the Southern California market "outperformed in 2020, [and] we expect them to outperform in 2021."[21]

The company touts to shareholders that it is successful because it "invest[s] in innovation."[22] Indeed, in 2019 Prologis identified "Change through innovation and operational excellence" as one of the three pillars "to guide [Prologis] through our next phase of growth."[23] Many of the options provided by the ISR seem not only consistent with — but anticipated by — Prologis's existing approach.

> Change Through Innovation & Operational Excellence is about embracing new challenges and using our global footprint and expertise to offer innovative solutions to our customers. As an example, we leveraged our scale to establish a dedicated manufacturing line of LED light fixtures that we can install through our Prologis Essentials LED program, which resulted in procurement cost savings of $15 million in 2019. Also, as our customers come to us for our expertise in sustainable real estate solutions, we are always looking for ways to help them tap into the environmental and economic benefits of renewable energy.

Rexford Industrial — another profitable Southern California market leader — similarly locates its success in "creat[ing] value through renovation and repositioning." The company points to investments in sustainability as benefitting the triple bottom line: citing a $1.6 million investment at one facility, the company claimed a nearly 300 percent return.[24]

<u>To be relevant, the rule must be more stringent</u>

While we applaud the staff approach to the ISR, we believe some of the key thresholds are too weak, and will not sufficiently protect communities:

- **Square footage**: Warehouses are getting both smaller and closer to where people live. Amazon.com recently announced plans to open 1,500 "small delivery hubs in cities and suburbs."[25] This means that just as residents will see increased exposure rates to dangerous emissions, these newer facilities are less likely to be covered by the indirect source rule. We believe that 100,000 square feet is insufficient as a threshold. We urge you to set the threshold at 50,000 square feet at some point in the future after the rule is adopted.
- **Stringency value**: The lowest stringency value studied by the Air District (0.0001) would only reduce, at a maximum, 1.5 tons per day of nitrogen oxide and 0.01 tons per day of diesel particulate matter, and the full stringency would not even apply to many warehouses for years (if at all).[26] The Air District should adopt a more stringent rule.

Thank you for your leadership. We appreciate your time and attention as you finalize and move forward with this critical rule.

Sincerely,

Lauren Jacobs, Executive Director
Partnership for Working Families

Roxana Tynan, Executive Director

Los Angeles Alliance for a New Economy

Ely Flores, Executive Director
Orange County Communities Organized for Responsible Development

Sheheryar Kaoosji, Executive Director
Warehouse Workers Resource Center

Cc:
Wayne Nastri, Executive Officer
Sarah Rees, Deputy Executive Officer
Ian MacMillan, Planning and Rules Manager, Mobile Sources/ISR
Victor Juan, Program Supervisor, Mobile Sources/ISR

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[1] Orlando Mayorquin, "New Ecommerce Warehouses Crowd Out Rural Communities in the Inland Empire," *Times of San Diego*, February 14, 2021.
[2] South Coast Air Quality Management District, Preliminary Draft Staff Report – Proposed Rule 2305, January 2021.
[3] Fact sheet from Warehouse Workers Resource Center, CCEJN, Sierra Club, East Yard Communities for Environmental Justice, and Earthjustice, "Warehouse Indirect Source Rule: A big step toward clean air, zero emissions, & green jobs," February 2021.
[4] Karen Thuermer, "Record-breaking demand for warehouse and DC development," *Logistics Management*, February 2021. See also: J.P. Morgan, December 21, 2020 ("The industrial REIT sector has been a significant outperformer in 2020"), Wells Fargo, December 10, 2020 ("Industrial REITs poised to deliver again in '21).
[5] Hannah Madans, "Betting on industrial," *Los Angeles Business Journal*, April 13, 2020. 224 million square feet from UCLA Anderson Forecast and Allen Matkins Commercial Real Estate Survey, Winter 2021.
[6] Prologis, cited in Wells Fargo Securities, December 10, 2020.
[7] Wells Fargo Securities, December 10, 2020. Nearby chart from UBS Global Research, January 20, 2021.
[8] Nearby chart from CBRE, U.S. Industrial & Logistics Figures, Q4 2020.
[9] Wells Fargo Securities, December 10, 2020. Scotiabank projects 5%–6% rent growth in 2021.
[10] Linda Baker, "'Insatiable demand' drives Southern California warehouse boom," *Freight Waves*, January 24, 2021.
[11] CBRE, U.S. Industrial & Logistics Figures, Q4 2020.
[12] UCLA Anderson Forecast and Allen Matkins Commercial Real Estate Survey, Winter 2021.
[13] Annlee Ellingson, "Southland industrial real estate weathering pandemic thanks to e-commerce surge," *Los Angeles Business Journal*, September 24, 2020.
[14] Charts from Rexford Industrial Realty, taken from Seeking Alpha, February 7, 2021.
[15] A.B. Brown, "Prologis expects US warehouse rental rates to rise 5% in 2021," *Supply Chain Dive*, February 2, 2021; see also Emma Cosgrove, "Warehouse rents could slow their climb in 2021 as construction boosts supply," *Supply Chain Dive*, January 12, 2021.
[16] Rexford Co-CEO Howard Schwimmer on Q4 2020 earnings call, February 12, 2021.
[17] Linda Baker, "'Insatiable demand,'" *Freight Waves*, January 24, 2021.
[18] Wells Fargo Securities, "Industrial REITs: Q4 '20 Earnings Preview," January 22, 2021.
[19] UBS, "Prologis Inc. 4Q20 Earnings Update," January 26, 2021.
[20] Robert Baillieul, "Collect rent checks as Amazon.com's landlord," *Income Investors*, August 24, 2020.
[21] Comments from Prologis VP Christopher Caton on Prologis Q4 2020 earnings call, January 26, 2021.

[22] Comments from Prologis COO Gary Anderson at the Morgan Stanley Life After Covid Conference, November 12, 2020.
[23] 2019 Prologis ESG Impact Report.
[24] 2019 Rexford ESG report.
[25] Spencer Soper, "Amazon Plans to Put 1,000 Warehouses in Suburban Neighborhoods," *Bloomberg*, September 16, 2020.
[26] South Coast Air Quality Management District, Warehouse ISR Working Group Presentation, December 17, 2020.

LEE & ASSOCIATES
COMMERCIAL REAL ESTATE SERVICES

April 27, 2021 Via Email: imacmillan@aqmd.gov / vjuan@aqmd.gov

Ian MacMillan
Victor Juan
SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT
21865 Copley Drive
Diamond Bar, California 91765-4178

Subject: Comments on Proposed Rule 2305 (Warehouse Indirect Source Rule)

Dear Gentlemen:

I oppose the adoption of Rule 2305 (Indirect Source Rule). Warehouses are integral to the Southern California logistics industry. The logistics industry plays a crucial role in the response to the COVID-19 pandemic—not only in the distribution of medical supplies, vaccines, and equipment but also in delivering goods to a public that has become increasingly dependent on e-commerce.

The District's proposed ISR seems to be a misguided policy during the COVID-19 pandemic. The District is pursuing a regulation targeting a sector that serves as a lifeline to our region and the nation and is deemed essential by federal and state governments. Under the current draft rule, reporting obligations begin only 60 days from rule adoption. The substantive WAIRE Points obligations will commence as soon as July 2021.

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   d) Warehouse operators do not control which trucks come to warehouses, when they arrive, where they come from, or any other variables related to truck trips.

3. The technology is not available to accomplish items on the WAIRE menu. For example, there are no heavy-duty electric trucks available that are viable from a technology and/or economically reasonable standard.

4. Warehouses have been deemed to be essential businesses by the State for important reasons including:
   a) The approximately 18 million people who live in Southern California rely on

warehouses as an integral part of the goods movement system to get them the items they need to survive, like food, medical supplies, clothes etc.

5. This rule creates tremendous uncertainty in the economy as the full negative impact of this ISR is not known.

a) Uncertainty should not be created in this critical, essential business sector, especially considering the current economic downturn/unemployment crisis associated with the COVID-19 pandemic.

6. Warehouses provide a broad range of jobs for people of every level of education and skillset. Warehouses and the logistics industry offer jobs that lead to upward ability. This job creation is a socioeconomic benefit that the proposed ISR's onerous costs would threaten.

7. The proposed ISR seeks to "indirectly" regulate the trucking industry through the Warehouse industry. The District should publicly explain how it has the jurisdiction/authority to regulate a mobile source that is such an integral part of interstate commerce as the trucking industry.

Thank you for your attention to these comments. Please include these comments as part of the official record for Proposed Rule 2305 (Warehouse Indirect Source Rule) so that all SCAQMD Board Members may have the opportunity to review the above.

Respectfully,

LEE & ASSOCIATES COMMERCIAL REAL ESTATE SERVICES, INC. – CITY OF INDUSTRY
CORPORATE ID 01125429

Peter O. Bacci

Peter D. Bacci, SIOR
Executive Vice President & Principal
License ID 00946253
Direct: 323.767.2022
Email: pbacci@lee-associates.com

Cc: Governing Board Members

Logistics Property Company, LLC
One North Wacker Drive, Suite 1925
Chicago, IL 60606

April 28, 2021

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By:____________________________

James G. Martell, CEO

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By: Jeanne Sok

Jeanne Sok. Office Manager

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By:____________________________

Cameron T. Pybus
Vice President, Project Management

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By: Maria Peralta

Maria Peralta
Construction Accountant & Office Manager

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By: Grace Hidalgo
Grace Hidalgo, Administrative Assistant

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By:____
Mark Glagola, SVP – Northeast Region

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By:______________________________
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5. This rule creates tremendous uncertainty in the economy as the full negative impact of this ISR is not known.

a) Uncertainty should not be created in this critical, essential business sector, especially considering the current economic downturn/unemployment crisis associated with the COVID-19 pandemic.

6. Warehouses provide a broad range of jobs for people of every level of education and skillset. Warehouses and the logistics industry offer jobs that lead to upward ability. This job creation is a socioeconomic benefit that the proposed ISR's onerous costs would threaten.

7. The proposed ISR seeks to "indirectly" regulate the trucking industry through the Warehouse industry. The District should publicly explain how it has the jurisdiction/authority to regulate a mobile source that is such an integral part of interstate commerce as the trucking industry.

Thank you for your attention to these comments. Please include these comments as part of the official record for Proposed Rule 2305 (Warehouse Indirect Source Rule) so that all SCAQMD Board Members may have the opportunity to review the above.

Respectfully,

Logistics Property Company, LLC

By:____________________________
Vince Pergande
Vice President, Project Management

LOGISTICS® PROPERTY CO

Logistics Property Company, LLC
One North Wacker Drive, Suite 1925
Chicago, IL 60606

April 28, 2021

Ian MacMillan
Victor Juan
South Coast Air Quality Management District
21865 Copley Drive
Diamond Bar, California 91765-4178
Email: imacmillan@aqmd.gov / vjuan@aqmd.gov

Subject: Comments on Proposed Rule 2305 (Warehouse Indirect Source Rule)

Dear Mr. MacMillan:

Logistics Property Company, LLC, opposes the adoption of Rule 2305 (Indirect Source Rule). Warehouses are integral to the Southern California logistics industry. The logistics industry plays a crucial role in the response to the COVID-19 pandemic—not only in the distribution of medical supplies, vaccines, and equipment but also in delivering goods to a public that has become increasingly dependent on e-commerce.

The District's proposed ISR seems to be a misguided policy during the COVID-19 pandemic. The District is pursuing a regulation targeting a sector that serves as a lifeline to our region and the nation and is deemed essential by federal and state governments. Under the current draft rule, reporting obligations begin only 60 days from rule adoption. The substantive WAIRE Points obligations will commence as soon as July 2021.

The following further comments are provided in response to the District's Proposed Rule 2305:

1. This rule would impose additional/permanent costs on warehouses of approximately $.90 per square foot. This extra cost would amount to targeting a specific essential industry with $1 billion in annual fees during the worst possible time and while responding to the pandemic's challenges on behalf of our nation.

2. It is not feasible to comply with the ISR due to the following:
   - a) The proposed rule requires warehouses to control truck fleets and decrease truck emissions. Yet, warehouse operators are not able to accomplish this task.
   - b) Warehouses have no control over how truck engines are manufactured.
   - c) Warehouses do not own truck fleets, nor do they control what type of trucks shipping companies purchase.
   - d) Warehouse operators do not control which trucks come to warehouses, when they

arrive, where they come from, or any other variables related to truck trips.

3. The technology is not available to accomplish items on the WAIRE menu. For example, there are no heavy-duty electric trucks available that are viable from a technology and/or economically reasonable standard.

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Logistics Property Company, LLC

By: Robert T. Heffernan
Name: Robert T. Heffernan
Title: SVP and Associate General Counsel - Corporate

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One North Wacker Drive, Suite 1925
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April 29, 2021

Ian MacMillan
Victor Juan
South Coast Air Quality Management District
21865 Copley Drive
Diamond Bar, California 91765-4178
Email: imacmillan@aqmd.gov / vjuan@aqmd.gov

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Logistics Property Company, LLC

By: William J. Pelton

William J. Pelton, Executive Vice President and
General Counsel

Logistics Property Company, LLC
One North Wacker Drive, Suite 1925
Chicago, IL 60606

April 28, 2021

Ian MacMillan
Victor Juan
South Coast Air Quality Management District
21865 Copley Drive
Diamond Bar, California 91765-4178
Email: imacmillan@aqmd.gov / vjuan@aqmd.gov

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Logistics Property Company, LLC

By: Irma Sahagun

Irma Sahagun, Senior Project Accountant

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Logistics Property Company, LLC
One North Wacker Drive, Suite 1925
Chicago, IL 60606

April 28, 2021

Ian MacMillan
Victor Juan
South Coast Air Quality Management District
21865 Copley Drive
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Respectfully,

Logistics Property Company, LLC

By: Katherine Bernstein

Katherine Bernstein
SVP, Capital Markets

great buy products
2034 E. 27th Street Unit C Vernon, CA 90058
Tel: 747.999.5780 Fax: 747-999-5632

April 9, 2021

Chair William Burke and Governing Board Members
South Coast Air Quality Management District
21865 Copley Drive
Diamond Bar, California 91765-4178

Re: **OPPOSITION TO PROPOSED RULE 2305 (WAREHOUSE INDIRECT SOURCE RULE)**

Dear Mr. Burke and Governing Board Members,

Currently, there are pending changes concerning air quality regulation that are due to be voted on by you. As a business that relies on affordable warehouse space, we are deeply concerned what potential impacts Rule 2305 will have to our operating expenses. If Rule 2305 passes it will result in increased property taxes and consequently, higher overhead operating expenses creating economic hardship in an already difficult economic climate. Currently in our lease, we as the Tenant, are responsible for any resulting increases in taxes imposed through this new Rule.

We are very concerned about the potential negative impacts on the warehousing/logistics sector by the South Coast Air Quality Management District. We are reaching out to you today to encourage you to reconsider the implementation of Rule 2305. Although we are also concerned with improving the air quality in Southern California, this Rule could deeply hurt our business and effectively our employees.

In consideration of this, we believe this proposed rule is outside the authority of the local air district and it is not mission driven as it has no sunset date. Furthermore, it is poorly written, fails to understand the dynamics of the goods movement sector, and includes an arbitrary menu of options and credits. Furthermore, the rule has questionable projections on any actual emission reductions it will achieve. Additionally, it will impose significant administrative and mitigation expenses. As written, this rule is in essence a tax on the warehousing sector.

While we understand Rule 2305 is well intended, we believe it will cause significant harm to our business for the reasons mentioned above. As such, we respectfully request that you oppose Rule 2305, as the potential damages to our business, and businesses like ours, across Southern California could be economically devastating, particularly when considering the financial hardships many business owners are already experiencing due to COVID-19 related closures, delays and ordinances.

Thank you in advance for your time and consideration.

Signed:

John Pourmoradi, President

Rexford Industrial

April 14, 2021

Chair William Burke and Governing Board Members
South Coast Air Quality Management District
21865 Copley Drive
Diamond Bar, California 91765-4178

Re: *OPPOSITION* TO PROPOSED RULE 2305 (WAREHOUSE INDIRECT SOURCE RULE)

Dear Mr. Burke and Governing Board Members,

Currently there are pending changes concerning air quality regulation that are due to be voted on by you. As one of the largest owners of industrial real estate throughout Southern California, encompassing approximately 32 million square feet, with 1,400 tenants in our portfolio, we are deeply concerned with the impact Rule 2305 will have to our tenants. If Rule 2305 passes it will result in increased property taxes and consequently higher operating expenses for our tenants across our properties. At all of our properties, the tenants are responsible for property taxes, *not landlord.*

Although we can certainly appreciate the important goal of improving air quality in Southern California, as we ourselves are committed to green leasing initiatives, we do not believe this rule is the proper means to achieve such goals. Mobile sources (trucks, cars) are already regulated by both the United States Environmental Protection Agency and the California Air Resources Board.

Unfortunately, this rule would cause economic harm to the majority of our tenants, whose primary business is the transportation and distribution of goods. Due to Rule 2305, tenants/businesses will end up paying the fee (tax) because it will not be feasible or possible for them to comply with the proposed standards. With proposed fees of up to ($0.09) per square feet, this would cost potentially millions of dollars across our portfolio to our tenants.

While we understand Rule 2305 is well intended, we believe it will cause more harm than good for the reasons outlined above. As such, we respectfully request that you oppose Rule 2305. Otherwise, the potential damage to businesses across Southern California could be economically devastating.

Thank you for your time, consideration, and service.

DE Lanzer

David Lanzer
General Counsel
REXFORD INDUSTRIAL REALTY, L.P.

4675 MacArthur Court, Suite 800
Newport Beach, California 92660 USA
949.437.1000 fax: 949.612.1894

www.CleanEnergyFuels.com

Todd R. Campbell
Vice President Public Policy & Regulatory Affairs

Clean Energy

April 27, 2021

Incoming Chair Ben J. Benoit
Governing Board
South Coast Air Quality Management District
21865 Copley Drive
Diamond Bar, CA 91765

RE: Proposed Rule 2305 – Warehouse Indirect Source Rule (ISR)

Incoming Chair Benoit and Members of the Board,

Clean Energy supports the original intent of the Warehouse Indirect Source Rule: to "reduce local and regional NOx and PM emissions". The proposed WAIRE (compliance) menu, however, does not solely factor in emission reductions but also includes project costs. Ironically, the inclusion of such costs penalizes cost-effective solutions and appears to do more for the California Air Resources Board's (CARB) long-term ZEV transition goals than the South Coast AQMD's goal to immediately improve air quality throughout the South Coast air basin.

Penalizing cost-effective strategies in the WAIRE menu is bad for the South Coast as it will have a material impact on the rule's ability to reduce emissions. Given that CARB is focused on statewide policy through its Advanced Clean Truck rule to achieve long-term emission (2045+), shouldn't the AQMD's PR 2305 target emissions reductions required to meet the region's 2023 and 2031 federal NOx attainment deadlines?

Clean Energy thereby requests that the Governing Board make a motion to remove the cost component from the WAIRE methodology used to determine WAIRE (compliance) points for each strategy. This change would guarantee that points are only awarded for much needed NOx and PM emissions reductions. Basing points on reductions alone is a simple, transparent and straightforward approach that provides greater flexibility for warehouse owners and operators, better air quality outcomes for the community, and avoids unnecessary market manipulation.

Thank you for your time and consideration. If you should have any questions, please contact me directly at your convenience.

Most sincerely,

Todd R. Campbell

Cc: Mr. Wayne Nastri
Mr. Victor Juan

From: William Vogel <will@vogelcre.com>
Sent: Monday, April 19, 2021 3:36 PM
To: Ryan Banuelos <RBanuelos@aqmd.gov>
Cc: Victor Juan <vjuan@aqmd.gov>
Subject: Proposed Rule 2305

To Whom It May Concern;

We were just made aware of this proposed rule to the SCQAMD and vehemently oppose everything that is in it. As an owner of warehouses in the district we cannot fathom a possible need for a warehouse owner to report anything to the SCQAMD. We do not operate the warehouses nor do we operate the trucks that come to and from our warehouses. As a vacant warehouse we have 0% emissions and at all other times our tenants are solely responsible for the operation of the buildings including utilities consumed thereby.

As an operator of a warehouse of more than 100 SF (which is a number that is growing at a rapid pace) you don't have to be the biggest fish in the ocean anymore. This will be putting undue stress on our mom & pop operators who are already struggling to get by thanks to the Governor shutting down more than half of the state for almost one whole year. If you want the whole trucking industry to adopt fuel efficient trucks, focus on the trucking operators and not the building owners or the companies that warehouse in them.

Adopting electric trucks will only help to quicken the states already degrading electrical infrastructure that can be blamed for rolling blackouts during times of high demand, especially at night which is when everyone plugs in, as well as the public fiascos such as the massive fires up north and throughout SoCal for almost a decade. Half of our buildings aren't even supplied with enough power to allow for plugins and that can't be fixed by us as the utility never buried enough line in the city streets in order to serve that type of demand.

We already have tenants leaving the state in droves and I expect this will hurry that up over the next couple of years. If you want to keep the state's tax income rolling through the doors, start worrying about helping businesses grow and prosper and providing power to folks year round without blackouts or polluting fires. At this rate, there won't be anyone left here to breathe the air you purport to care about keeping clean.

William D. Vogel II
President
Vogel Properties, Inc.

300 Paseo Tesoro
Walnut, CA 91789

Office: (909) 598-7065
Mobile: (714) 932-2750