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July 27, 2011
Chairman Mary Nichols
California Air Resources Board
1001 I Street
Sacramento, CA 95814

RE: Public Hearing to Re-consider the Regulation to Implement CA Cap and Trade

Dear Chairman Nichols:

The International Warehouse Logistics Association (IWLA) is a non-profit trade association representing the value-added warehousing and logistics industry, third-party logistics and warehousing service providers. IWLA members are committed to warehousing and protecting the free flow of products across international borders. IWLA submitted comments regarding placing diesel fuel under a declining cap as part of the Cap and Trade Program in 2015. We believe that the declining cap on diesel fuel would cause warehousing in California irreparable harm. You ignored our comments and moved ahead. This policy is a train wreck for California's transportation sector, the only sector of the economy that is holding its own during this time of 12.3 percent unemployment in the state.

The loss of cargo and the associated value-added services that California warehouse and supply-chain partners provide to other ports, specifically Seattle, Houston, Panama and Canada does not equate to an improvement in carbon emissions. In fact, the policy can actually make this problem worse: Commodities like fuel will have to move further to get to markets.

The California Air Resources Board (CARB) must repeal placing transportation fuels under a declining cap. This economically devastating regulation on California warehouse businesses has steamrolled ahead without any understanding of goods movement or any careful economic monitoring. This policy will kill California's last viable industry – light manufacturing and transportation.

AB 32 requires CARB to adopt cost-effective measures. The combination of a diesel low-carbon fuel standard (LCFS) and placing diesel fuel under the cap in 2015 is an economically devastating scenario for California's economic recovery. IWLA stated this on December 16, 2010. Here we are six months before these regulations start with no recipe to make these low-carbon fuels. In addition, the largest tax ever placed on transportation fuels is hidden in cap and trade as "fuels under the cap."
We urge you to re-evaluate this carbon tax – if a tax needs to be levied at all. Perhaps these charges could be passed on to the consumer, not placed heavily on the backs of small businesses.

IWLA members have participated in many recent CARB workshops about the LCFS and placing diesel fuel under the declining carbon cap. IWLA members asked simple questions: They still await answers. LCFS and placing transportation fuels under a declining cap are plans not ready for prime time. They, even now, are premature and short sighted. IWLA's December 16, 2010, comments that these regulations were not ready were spot on. It is time for CARB to face reality.

IWLA and its members are also very concerned about the high-carbon-intensity crude oil restrictions under the LCFS. The restrictions have the potential to disrupt the crude-oil market for refineries in California. If HCICO restricts the refineries from running the most economic crude oil, the higher cost will be passed on to our members: Either they will face higher diesel prices or they will be required to purchase more expensive imported fuel.

This change would actually hurt the environment as a result of leakage through crude shuffling or imported fuels. California-only fuels did not work in 1993 or in 1996 for criteria pollutants: The restrictions certainly will not provide any greenhouse gas reductions. Arguably, they will increase worldwide carbon emissions. California third-party logistics providers (3PLs) are not only trade exposed – but they also represent California's international trade lanes.

Continuing on the current path and placing diesel fuel under a declining cap in California will do the following to the businesses left in the state:

1) Create volatile carbon prices that are recognized only in the California supply chain. This will require 3PLs to redesign shipping lanes and warehouse locations. California will be left with the trucks and the pollution from other states – but none of jobs.

2) Create a repeat of the state fuel crises of 1993 and 1996, defined by a price shock in the beginning of the second compliance period negatively impacting overall allowance prices for the entire program.

3) Decrease actual volumes of low-carbon fuel sold and burned in the state while increasing the sales of diesel fuel from other states created by the redesign of shipping lanes. The leakage in interstate fuel burned in the state will increase the criteria pollutants that have actual health impacts rather than symbolic carbon reductions from California.

4) Become a marketing campaign for the 2014 Panama Canal opening, creating speculative movement of freight out of California before the 2015 introduction.

5) Make diesel transportation users the highest cost sector for compliance under the scoping plan while ignoring the low-cost method of engine-efficiency standards. Fuel reformulation is not cost effective either through the LCFS or the placement of fuels under the cap. Adopting them both in the same year is punitive to the transportation sector.

6) Drive up the allowance price for utilities and refineries leading to increased fuel prices and electricity prices. Commercial electricity users left behind in allocation of residential free allowances will shoulder increased rates caused by renewable energy mandates for utilities. Every commercial business in the state, including local warehousing, will be faced with increased electricity costs.

The $5.25 billion project to widen the Panama Canal is underway. Proponents market this improvement as an option to high-priced California operations. When completed in 2014, the canal's capacity will be doubled and the largest containerships in service today, which only visit Los Angeles/Long Beach, will be able to transit the canal. Placing transportation fuels under the cap in itself is devastating to the economics of California 3PL providers: Doing it in 2015 is foolish.

To avoid a program that is mired in legal challenges and economic harm to California, CARB must adhere to the statutory definition of cost effectiveness. Applying the lowest cost means of achieving the goals of AB 32[1] is not an option: It is a law. In plain English that means "cost effective" is defined in terms of \$/mt CO_2e reduced; yet, this regulation chooses to adopt the highest cost transportation fuels with full awareness that goods movement is a mobile industry.

CARB is trying to micromanage commodities by picking the winners and the losers. This program is an electric vehicle mandate on the backs of the transportation sector. No state has followed – and no state will. This is reminiscent of CARB diesel: an economic failure without any environmental benefit.

IWLA requests that CARB abandon placing transportation fuels under a declining cap. There are no safeguards that will stop the significant damage to the industry, just as IWLA outlined in 2010. In fact, the simple items we asked CARB to have market ready before the implementation (a state-only LCFS and placing transportation fuels under that cap) are much further off now than they seemed in 2010. Here is what we asked for:

1) Work to ensure a robust offset program to achieve compliance obligations post 2015 and ensure linkage to other programs.

2) Wait until 2018 to place diesel fuel under the cap and reopen the discussion prior to 2015. Discuss placing fuels under the cap to ensure a reliable, adequate, affordable supply of fuels to the consumers.

3) Expand offsets from 8 percent to 25 percent so that warehousing can engage in distributed-energy solutions for dealing with climate change instead of expensive fuel mandates.

Please do not continue to ignore the transportation sector. When a program fails to meet its milestones in the business community, it is abandoned.

CARB doesn't have the luxury of implementing a program that has failed every milestone. The California economy cannot take another blow. And the outcome of moving ahead as planned would be nothing short of an economic crisis in the transportation sector in California. Please stop!

If you have questions, please feel free to call me at (916) 704-2392.

Sincerely

Mike J. Williams

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Executive Director, California Government Affairs

The Honorable Jerry Brown, Governor
Nancy McFadden, Governor's Office
Matt Rodriguez, California EPA
James Goldstene, Executive Officer, CARB
California Assembly Members
California Senate Members

[1] Section 38501 (h) and Section 38505(d) define cost-effective or cost-effectiveness to mean "the cost per unit of reduced emissions of greenhouse gases adjusted for its global warming potential."