VALERO

VIA E-MAIL

October 18, 2011

Clerk of the Board
California Air Resources Board
1001 I Street, Sacramento
California 95814

Electronic submittal: http://www.arb.ca.gov/lispub/comm/bclist.php

Re: **Comments, Adaptive Management Plan for the Cap-and-Trade Regulation**

Dear Sir/Madam:

Valero Refining Company – California and Ultramar Inc (collectively "Valero") appreciate this opportunity to provide comments regarding the California Air Resources Board ("ARB") Adaptive Management Plan for the Cap-and-Trade Regulation, as posted for public comment on October 10, 2011. Valero owns and operates two refineries in the state of California, with a combined throughput capacity of over 305,000 barrels per day. Valero refines and markets products on a retail and wholesale basis through an extensive bulk storage and pipeline distribution system. Additionally, Valero's affiliates own and operate one of the nation's largest retail operations, which have a significant presence in California, as well as 37 other states. Valero, on behalf of itself and its affiliates, is providing the following comments and concerns regarding the above referenced revisions. Additionally, to the extent that CARB pursues a Cap-and-Trade program under AB32, Valero herein adopts by reference the comments on the Cap-and-Trade regulation previously submitted by Valero during the first public comment period on August 11, 2011 and second comment period on September 23, 2011; AB32 Scoping Plan Functional Equivalent Document comments submitted on July 28, 2011; and associated comments submitted by the Western States Petroleum Association regarding the above referenced documents.

We have listed below issues and concerns that we wish to expand upon further to lessen the impact and improve upon your efforts.

1. **The processes for achieving the objectives of ARB's Adaptive Management Plan are not clear.**
   In Section IIIA, "Objectives of ARB's Adaptive Management Plan", ARB states that the objectives of ARB's adaptive management plan include identifying potential localized emission increases and forest impacts caused by the cap-and-trade regulation and establishing a process to address unanticipated adverse local air quality and forest impacts. In Section IIIB, ARB goes on to state that the key elements of this adaptive management plan are: (1) data and data source identification (information gathering); (2) analysis to determine whether an adverse impact is caused by the cap-and-trade regulation (review and analysis);

and (3) identifying potential actions ARB could take to address these impacts and committing to take appropriate action (response).

In the Executive Summary (page ES-2), ARB admits that "it may not be possible to identify a direct causal relationship between the environmental change and the Regulation… Therefore, ARB will evaluate the weight of available evidence to determine the reason for the change".

Section V, "Review and Analysis", provides what ARB describes as stepwise approach to evaluating the data gather as part of the adaptive management plan that includes the use of different indicators to assess whether there's a correlation between an environmental change and the cap-and-trade regulation, with the weight of evidence available from this approach guiding ARB's conclusions on whether or not the cap-and-trade regulation was the cause of a potential adverse impact. Unfortunately, ARB's approach lack's the detail needed to provide stakeholders with a clear process of how ARB will reach their conclusions. In particular,

- ARB is vague in the statistical protocol that would be employed to determine if the change was part of normal process/data variability or related to the change;
- how they will fully evaluate changes in economic activity and relate them to air quality and emission trends; and
- how they will effectively and accurately correlate emission changes to changes in the economy, consumer demand or manufacturing trends.

Valero believes that ARB should fully disclose how they plan on assessing the data to draw conclusions regarding the impact of a cap-and-trade regulation before a rule is promulgated that provides a high degree of uncertainty to the regulated community. The conclusions reached by ARB using the available data described could ultimately result in changes to the regulation requiring additional investments and costs to business.

Valero strongly urges ARB to fully present how they plan on collecting and analyzing data pursuant to this proposed Adaptive Management Plan before adopting a cap-and-trade regulation. The implications of what ARB proposes presents uncertainly to businesses in the State that need to be addressed prior to adoption so the proposed regulation can be evaluated in its entirety. On behalf of Valero and its affiliates, please contact me at (210) 345-2120 should you have any questions or need clarifications concerning our comments.

Sincerely,

Patrick Covert
Executive Director, Regional Environmental and Regulatory Affairs
Corporate Environmental
Valero Companies