July 19, 2010

Chairwoman Mary Nichols and Board Members

California Air Resources Board

1001 I Street

Sacramento, CA 95814

**Re: Support for an Improved Regulation for Energy Efficiency and Co-Benefits Assessment of Large Industrial Facilities**

Dear Chairwoman Nichols and Members of the Board,

We write on behalf of the Natural Resources Defense Council, Sierra Club, Coalition for Clean Air and the American Lung Association of California in support of the Regulation for Energy Efficiency and Co-Benefits Assessment of Large Industrial Facilities (“Industrial Audit Measure”) with improvements. We commend ARB for moving forward on this measure to reign in global warming pollution from one of the largest sectors, an important step towards implementation of AB32. However, we recommend several minor yet critical improvements to the measure to *assure* real reductions in global warming pollution and health benefits from the Industrial sector.

We are very pleased that ARB has finalized regulations that will accomplish a significant portion of the greenhouse gas (GHG) emission reductions necessary to achieve AB 32 goals, including the adoption of 14 measures that will achieve almost half of the reductions required to meet 2020 goals.[[1]](#footnote-1) This measure is the first in the industrial sector, which is responsible for one third of the total GHG emissions statewide.[[2]](#footnote-2) Given the magnitude of emissions and potential reductions from this sector, it is imperative to ensure a specific GHG reduction target and a reliable basis for those reductions. We recommend the following improvements to the measure, with more detailed comments following:

1. ***Incorporate a clear GHG reduction target of 10 MMT CO2e*** from this measure, guaranteeing that cost-effective reduction strategies are implemented to provide significant global warming pollution reductions, air quality improvements and health benefits in the communities that need them most.
2. ***Institute Oversight on Data Quality*** to prevent inherent conflicts of interest that may undermine the value of this self-reporting data gathering measure.

***Highlights of the Measure***

We appreciate the hard work of staff to create this measure covering vast and diverse sources. We strongly support the dual requirements to report process specific data on criteria pollutant and toxic air pollutant emissions alongside GHGs. It is important to consider air quality impacts together with climate impacts, especially in the industrial sector where the largest greenhouse gas emitters are also some of the largest polluters. For example, according to a recent report, of the twelve largest greenhouse gas emitters in California, eight are also the worst actors in terms of their pollution burdens on surrounding communities, disproportionately impacting people of color. These facilities - BP Refinery, Carson; Tesoro Refinery, Wilmington; Paramount Refinery, Paramount; ConocoPhillips Refinery, Wilmington; ExxonMobil Refinery, Torrance: Chevron Refinery, Richmond; Valero Refinery, Wilmington; California Portland Cement Company, Colton – are all covered by this industrial audit measure.[[3]](#footnote-3) Reporting air pollutant data in addition to GHGs as well as provisions to make this data accessible to the public will make this information especially helpful to residents in disproportionately impacted communities.

***We Support the Fact that the Measure Targets the Largest Sources for Improvements***

We are also supportive of the inclusion in this measure of all large refineries and cement kilns in addition to other industrial facilities above the 0.5 MMT CO2e threshold. In fact of the 60 largest facilities in California falling under this measure – refineries, oil and gas extraction, power plants, cement and mineral plants and hydrogen plants – most are extremely large with the average emissions per facility going above 1 MMT CO2e. In fact, up to 12 MMT CO2e of reductions were identified from these facilities in an early draft of the scoping plan.

While the facilities included in this measure undoubtedly have other measures and requirements to comply with, it is important to consider the types of businesses included in this audit measure. According to the staff report, “the vast majority of the affected businesses are large businesses, many owned by multi-national corporations, and therefore, we do not expect their profitability to be adversely impacted.”[[4]](#footnote-4) Over one third of the facilities included in this measure, accounting for the majority of GHG emissions (58%) belong to Fortune 500 companies that collectively made over *$90 billion in profits* in 2009.[[5]](#footnote-5) Thus many facilities covered by this measure appear to have ample means with which to implement audit findings.

Audit measures, if implemented, should provide significant future energy and cost savings; industrial sector measures identified in the draft scoping plan (but not ultimately included) were slated to reduce up to 14 MMT CO2e of reductions and net future savings of $696 million.[[6]](#footnote-6) We recognize that some facilities, such as cement kilns, may have trouble financing the necessary investments to reap these reductions and future savings, and recommend the creation of a low cost loan program similar to that created for small business truck owners.

It is important to note that refineries in particular, which account for half of industrial source GHG emissions, have historically created the most obvious and consistent disproportionate impacts. The 18 refineries subject to this measure are clustered in the Los Angeles Harbor Area, along the San Pablo - Carquinez area near San Francisco and in the Bakersfield area. Nearly all of the refineries have created significant environmental injustices as the attached maps indicate, and nowhere more so than the LA Harbor Area, where four refineries are clustered in Wilmington alone. Almost one million people live within several miles of the eleven LA area refineries, and all but one are situated in low income communities of color.

***We Urge CARB to Ensure Reductions by Setting a GHG Target***

Providing a goal to improve the largest emitters is most important and urgently needed in the over-burdened communities outlined above. Currently there are no assurances for GHG and related emission reductions from industrial sector measures. Despite the fact that the industrial sector accounts for one third of statewide GHGs, the scoping plan provided a vague outline for reductions relying on a cap and trade measure to produce 10 MMT CO2e of reductions and a handful of small measures amounting to 1.44 MMT CO2e of additional reductions for which regulatory development has not yet begun.[[7]](#footnote-7) By itself, the audit measure contains no requirements to act upon any cost-effective and feasible reduction measures that are identified, leaving decisions to act on the audits as voluntary. We concur with a recent EPA Office of Inspector General report that voluntary GHG reduction programs have limited potential.[[8]](#footnote-8)

While the cap and trade regulation is still under development and the level of participation required by different facilities is uncertain, we strongly recommend setting a target for GHG reductions from the industrial sector. The target would serve as a consistent 2020 goal for this sector regardless of which facilities are ultimately included in a cap and trade system and when they are included. Setting a goal of 10 MMT CO2e allows the state to maintain its total 2020 reduction goal, as this is what the initial scoping plan relied on. This goal amounts to less than 10% of sector emissions and allows for plenty of flexibility in defining specific measures and strategies on the way to 2020.

***Random Third Party Re-Audits or Third Party Verification would Prevent Conflicts of Interest***

The efficacy of the data collected through this measure is paramount; however, the self auditing allowed by the measure can lead to significant errors or incomplete reporting. We recognize the need identified by staff to keep this measure simple, affordable, and efficient and to capitalize on the extensive in-house expertise on industrial processes at these facilities and do not seek to delay this important measure. In that light, we offer the following recommendation to ensure appropriate oversight and guarantee the quality of the data collected. We urge the inclusion of random third party re-audits or third party verification of submitted data by technical experts identified by ARB. While our preference is for all audits to be performed by an independent third party, this approach should provide a reasonable level of quality assurance to counter conflicts of interest.

**CONCLUSION**

We strongly support the intent of this measure and therefore urge you to incorporate our recommendations to shore up future improvements to the very largest industrial polluters. This industrial sector measure has tremendous potential to significantly reduce GHGs while also delivering air pollution reduction benefits to local communities, and particularly those communities most in need of improvements. With a GHG reduction target and data quality assurance plan, this measure could become an important cornerstone of AB 32 as well as contributing to important SIP and environmental justice goals towards cleaner air and healthier communities.

Thank you very much for considering our recommendations to strengthen the Industrial Audit Measure.

Sincerely,

Diane Bailey

Natural Resources Defense Council

Bill Magavern

Sierra Club

Nidia Bautista

Coalition for Clean Air

Bonnie Holmes-Gen

American Lung Association of California

1. Reported at the April 22nd 2010 board hearing; http://www.arb.ca.gov/board/books/2010/042110/10-4-1pres.pdf [↑](#footnote-ref-1)
2. Based on 2008 data, with 160 MMT CO2e reported in the ISOR, p. 10 for the industrial sector and 473.76 MMT CO2 e reported for total GHGs in the inventory, http://www.arb.ca.gov/cc/inventory/data/tables/ghg\_inventory\_scopingplan\_00-08\_2010-05-12.pdf [↑](#footnote-ref-2)
3. Minding The Climate Gap: What's at Stake if California's Climate Law isn't Done Right and Right Away

   By Manuel Pastor, Rachel Morello-Frosch, James Sadd, and Justin Scoggins, April 2010; http://college.usc.edu/pere/publications/ [↑](#footnote-ref-3)
4. ISOR, p. 36. [↑](#footnote-ref-4)
5. See Fortune 500 Company listing at http://money.cnn.com/magazines/fortune/fortune500/2010/full\_list/ [↑](#footnote-ref-5)
6. GHG reduction estimates based on draft scoping plan measures. Numbers in parentheses are potential GHG reductions in 2020 and net annualized cost, per Appendix C. [↑](#footnote-ref-6)
7. This was the assumed reduction from a Cap & Trade program in the Health Analysis of the scoping plan; reductions from additional industrial source measures are reported in the July 1, 2010 Scoping Plan Measures Implementation Timeline. [↑](#footnote-ref-7)
8. US EPA Office of Inspector General, Evaluation Report: Voluntary Greenhouse Gas Reduction Programs Have Limited Potential, Report No. 08-P-0206, July 23, 2008. [↑](#footnote-ref-8)