



International Warehouse Logistics Association

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Chairwoman Mary D. Nichols
California Air Resources Board
1001 I Street
Sacramento, CA 95814

Re: Docket number 08-11-4

Public hearing to consider the adoption of a regulation to reduce greenhouse gas emission from heavy duty vehicles (*SmartWay Regulation*)

The International Warehouse Logistics Association (IWLA) is an international association of third-party logistics (3PL) providers and value-added warehouse services. Our 500+ member companies provide timely and cost-effective third-party supply chain logistics solutions for retailers, manufacturers, importers and exporters. Our members are committed to protecting the free flow of products across international borders. IWLA members conduct business in the United States and Canada.

The SmartWay regulation defines the California shipper as the owner of the freight, a distribution center or a temporary freight storage facility. IWLA members are distribution centers or temporary freight storage facilities; they are not cargo owners.

IWLA members are very concerned with the declining economic conditions of the National and California economies. Governor Schwarzenegger has recently announced a \$28 billion revenue shortfall for the current and upcoming fiscal years. California distribution centers are at a competitive disadvantage, as compared with those in other states, because of the business climate and inherently higher business operating cost. Distribution centers and their transportation modes are critical in keeping the manufacturing, retail and international import and export cargo and economy moving for California.

The SmartWay regulation prohibits all motor carriers operating on California roads from moving freight through warehouse facilities without SmartWay compliant tractors and trailers regardless of the equipments' origin or end destination. National shippers who want to sell products in California would be required to 1) understand California State - only rules, 2) arrange for special trucks/trailers to deliver goods in California, 3) be penalized if they don't comply.

The rule is unenforceable because California can't expect the Nation to comply with a trailer concept that is not nationally accepted or commercially viable and the reductions do not meet The Global Solutions Act of 2006 (AB 32) health and safety section 38652(d)(1-2) which requires reductions to be real, additional, quantifiable, permanent, verifiable and enforceable.

IWLA is opposed to having the California warehouse as the enforcement arm for CARB for the following reasons:

A.) CARB is transferring enforcement costs and liability to the California warehouse. The SmartWay regulation transfers the enforcement costs to the warehouse operator for a non-funded truck/trailer mandate. This rule inserts the shipper warehouse into an inappropriate role between interstate and intrastate motor carriers and the regulators. This role assignment misuses the 3PL business relationship and makes the warehouse an enforcement arm for the CARB creating an untenable relationship between the business parties. CARB, itself, can enforce the rule through weigh stations, at state lines, roadside in the field with the smoke enforcement teams or DMV vehicle registration. CARB has mistakenly assumed that the 3PL providers who service multiple clients actually own the cargo. The 3PL does not own the cargo or have direction or control over the cargo movement. The 3PLs' clients can be selling the goods to fourth parties such as a retailer or a wholesaler thus adding more complexity to enforcement of this rule.

B.) CARB has failed to assess the cost to the California warehouses of policing the trucks and trailers of hundreds of fleets over which they do not have direction or control. Since the truck or trailer will not have a CARB sticker, the shipper warehouse would be required to inspect all equipment. How will the shipping warehouse know if the truck qualifies for the 100-mile short-haul exemption, if the equipment is in "good operating condition" (not damaged or not properly functioning) or if the trailers are part of the "optional trailer fleet schedule"? The California warehouse shipper, on receipt of a notice of violation (NOV), would have to assign staff to document conversations with all motor carriers and cargo interests about the NOV. The California shipper warehouse has no way to know if the motor carrier has paid NOV penalties to CARB. The warehouse staff would also have to inspect and document every piece of equipment from the violating-equipment provider to protect themselves from a CARB penalty. The cumulative costs of staff time and driver-delay hourly penalties are unfairly incurred by the warehouse. The 3PL warehouse could not feasibly comply with CARB's SmartWay regulation standard for trucks and trailers.

C.) CARB has erroneously determined that a warehouse employee is trained and certified in truck or trailer mechanics. The job classification for warehouse staff has no connection with the transportation services provided by the motor carrier. CARB has mistakenly classified a warehouseperson as truck mechanics. The warehouse worker has no knowledge if 1) the trucks or trailers are in good operating condition and not damaged or not functioning properly or 2) SmartWay compliant. This is not a function for which warehouse workers are trained. Warehousing is a different job function than truck mechanics and the functions are in different industries with different classifications in the Standard Industrial Codes (SCI). The only remedy is for the warehouse to hire truck mechanics to inspect and document every vehicle that comes into a California shipper warehouse. This additional cost of SIC workers classified as mechanics was not part of the staff report and is not reflected in the economic analysis and is an unrecoverable cost for the California shipper warehouse. This SmartWay regulation imposes unrecoverable costs on interstate cargo shippers. If the customer is on the East Coast or the loading process is scheduled to take place on the night shift (which is typical of larger 3PL providers who run multiple shifts), the equipment problem is not likely to be resolved until the following day. This loading delay will add additional costs in the form of overtime to the warehouse operations, driver waiting-time penalties and missed delivery schedules.

Recommendation for A, B C:

Remove the California shipper warehouse from enforcing the rule and subsequent penalties. CARB can enforce the SmartWay regulation with their own staff through weigh stations, at the state lines, roadside with the smoke testing teams or DMV registration.

D.) CARB's short-haul exemption is too narrow to incorporate fuel-efficiency gains into urban congestion areas thus violating AB 32's requirements for reductions to be real, additional, quantifiable, permanent, verifiable and enforceable. California is 770 miles long and 250 miles wide. The staff report indicates the percentage of tractors with a primary range of over 100 miles for California carriers is 23% and, for interstate carriers, 71%. Thus, California motor carriers are a smaller percentage of the overall truck moves. A truck trip from Los Angeles to Bakersfield, San Francisco or San Diego is more than 100 miles, which means that a short-haul based motor carrier would need to have SmartWay equipment. However, the projected fuel efficiency gained by the proposed rule needs to be weighed against the urban congestion of the four trade corridors in California. The CARB's stated fuel improvements have not been proved in short-haul trucking with stop-and-go urban freeway congestion. The stated emission reductions in the short-haul exemption are overestimated and possibly non-existent.

E. CARB's emission projections are for interstate trucks at a consistent rate of speed. The short haul trucks accessing California shipper warehouses operating in urban settings at lower road speeds do not achieve the stated emission reductions in the staff report. The staff report used the EPA SmartWay modeling at 62.5 mph. The speed limit in California for a truck is 55 mph. To conserve fuel, many trucking companies use tractors that are governed not to go faster than 55 miles per hour. The stated benefits are inflated and provide inaccurate assumptions of the truck rate of speed and topography.

Recommendation for D, E:

CARB should adopt a 200- mile exemption to protect California carriers operating in short-haul applications.

F. Trailer skirting is ineffective and reduces payload. Rate of speed is essential for aerodynamic such as the trailer skirting to be effective. Trailer skirting adds 150 to 300 pounds of weight to the trailer and the skirts do not provide fuel economy in urban settings at lower rates of speed. The higher weight will provide less fuel economy and increase the carbon footprint for short-haul trucks. There are insufficient data available to demonstrate how the various aerodynamic technologies perform in the real-world California short-haul operations and thus not enough data to support a regulatory mandate.

Recommendation for F:

1) CARB should follow EPA's lead and adopt a voluntary standard that is real, additional, quantifiable, permanent, verifiable and enforceable. This will prevent CARB from overestimating greenhouse gas reductions 2) Grandfather in the California-based trailer fleets and focus on new equipment purchases.

Thank you for the opportunity to submit these comments. Please contact IWLA's California Government Affairs liaison, Patty Senecal at 310-678-7782 if you have any questions about this document or if IWLA can be of any further assistance or technical support on issues involving goods movement or distribution center operations.



Joel D. Anderson
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Cc: Linda Adams, Secretary CalEPA
Cc: CARB Board Member