

Indirect Source Rules: A New and Evolving Frontier of State and Local Vehicle Regulation

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States and cities are increasingly using their police power to regulate mobile source emissions. Warehouses – and the trucks that serve them – are already subject to an “indirect source rule” (ISR) in southern California, and similar warehouse ISRs are now being pursued in Colorado, New Jersey, and New York City. Warehouse owners, operators, and associated businesses – like logistics companies and truck fleet operators – should carefully track this spreading trend, but the impact of ISRs could also extend to other facilities that serve significant numbers of vehicles. Multiple jurisdictions are considering ISRs that could target a diverse array of facilities including ports, airports, railyards, entertainment venues, and universities.

ISRs are gaining traction because they are perceived as a potentially effective means of circumventing federal laws that preempt state and local governments from regulating vehicle emissions. This is achieved by imposing strict requirements on warehouse development and/or operation that can only realistically be met by reducing truck emissions, for example through the increased adoption of zero-emission models.

The recent wave of Warehouse ISR proposals began in 2021, when the [South Coast Air Quality Management District \(SCAQMD\) in California adopted its Warehouse ISR](#). Under that rule, companies operating large warehouses, in addition to meeting various monitoring and reporting requirements, must meet mitigation obligations based on the number of and types of trips to their facility or pay a “mitigation fee”. The rule survived a preemption challenge brought by trucking and airline trade associations, [California Trucking Association v. South Coast Air Quality Management District](#), No. 21-06341 (C.D. Cal. Dec. 14, 2023), and was ultimately approved by EPA as a revision to California’s State Implementation Plan. 89 Fed. Reg. 73568 (Sept. 11, 2024). Following SCAQMD’s lead, the [San Diego County Air Pollution Control District](#) and the [Bay Area Air Quality Management District](#) are both actively considering the adoption of Warehouse ISRs.

Jurisdictions outside California are also following SCAQMD's lead. The Colorado Regional Air Quality Council (RAQC), which oversees air quality planning for the Denver Metro Region and North Front Range nonattainment area, is [in the midst of a public process to consider implementing an ISR program for the nonattainment area](#). In March, RAQC's ISR Technical Working Group issued [draft recommendations](#) covering warehouses, as well as entertainment venues, airports, and universities. The working group [intends to present](#) a potential approach for endorsement by the RAQC Board in June 2025, with the goal of having the Colorado Air Quality Control Commission adopt regulations by the end of 2026.

Legislation is [pending in New Jersey](#) that would adopt a warehouse indirect source program modeled on the SCAQMD approach. A similar bill called the Clean Deliveries Act [passed the New York State Senate in 2024](#), but did not move forward in the State Assembly. Both chambers have introduced similar bills in 2025. New York City is considering [Intro 1130](#) that would direct the City's Department of Environmental Protection (DEP) to promulgate an indirect source rule. DEP's Commissioner recently [testified in support of that bill](#), again citing the SCAQMD rule as a model.

While warehouses have been a primary focus of ISR regulatory efforts, ISRs may be extended to many other sectors and companies operating mobile sources. The SCAQMD also adopted [Rule 2306 – a Freight Rail Yard ISR](#) in August 2024, and is actively considering a “marine ports” ISR, which would effectively regulate not only ship emissions, but emissions from cargo handling equipment, locomotives, and trucks. The California Air Resources Board (CARB) is also proceeding with a [plan to address aviation emissions](#) announced in July 2024 that explicitly referenced the possibility of developing an Airport ISR in cooperation with the SCAQMD. In February 2025, a [bill was introduced in the California legislature](#) that would greatly expand the authority of CARB to adopt ISRs on a state-wide basis. That bill, AB-914, would also “establish a statewide reporting program to quantify emissions and annually collect related information from indirect sources of emissions, including data from on-road and off-road mobile sources that visit those sources, but are not owned or operated by those sources.” These adopted and planned ISRs may provide a similar foundation for State and local governments outside California to develop their own ISRs targeting facilities other than warehouses like the Colorado RAQC effort noted above. The result could be mechanisms under which states and localities effectively regulate emissions sources ranging from passenger vehicles and trucks to ships, planes and locomotives.

Although a federal district court has upheld the SCAQMD's Warehouse ISR against a preemption challenge, the legal status of these rules remains uncertain. In earlier litigation relating to a California air pollution control district rule that regulated construction sites as indirect sources, the Ninth Circuit found that the rule was not preempted, but a dissenting opinion took issue with the court's approach to indirect sources. *National Association of Home Builders v. San Joaquin Valley Unified Air Pollution Control District*, 627 F.3d 730, 740 (9th Cir. 2010) (N.R. Smith, dissenting). As states and cities beyond California move towards adopting ISRs, further litigation is all but certain.