



Executive Director: Craig A. Moyer, 11355 West Olympic Boulevard, Los Angeles, California 90064
Phone: (310) 312-4353 Fax: (310) 312-4224 E-mail: cmoyer@manatt.com

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VIA ELECTRONIC POSTING

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

Subject: WIRA Comments on CARB Second Notice of Modified Text for the Proposed California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms Regulation

Comment List: GHG2010

Clerk of the Board:

The Western Independent Refiners Association (WIRA) appreciates the opportunity to comment on the latest proposed modifications to the pending regulation for Mandatory Reporting of GHG Emissions.

As the trade association representing small and independent refiners on the West Coast, WIRA has been an active participant in CARB rulemakings for many years. The Board has consistently acknowledged that small and independent refiners are an important pro competitive force in the market for refined petroleum products. With WIRA members not having the same access to capital or economies of scale as major oil companies, it is imperative that mechanisms within this new regulatory scheme not disadvantage the smaller players in the refining sector.

WIRA submits these comments knowing that the deadline for regulatory adoption is pending, and therefore any additional changes to the Mandatory Reporting Regulation will need to be addressed in a subsequent rulemaking. The comments presented below are provided in that spirit. The focus of these comments is on the Carbon Dioxide Weighted Tonne Calculation (CWT).

Though discussed in general terms under the Cap and Trade Program, the specific methodology and CWT calculation details for the second compliance period allowance allocation in the refining sector were not placed in proposed regulatory language prior to this

second 15-day packet, from which changes to the regulation cannot be accommodated prior to its finalization.

CARB outlines the rationale for choosing this CWT approach in various supporting documents, including Appendix A to the second 15-day Cap and Trade package. Appendix A states:

[CARB] Staff plans to conduct additional technical work on the CWT approach in 2012 and will recommend any appropriate changes to the Board resulting from this analysis in a future regulatory package.

It is imperative that when this additional technical work is completed that it be done in a public and timely manner such that all parties have sufficient understanding and time to comment appropriately. It is also important that the Cap and Trade Regulation and the MRR remain consistent between themselves. Therefore, WIRA recommends that when such additional technical work is initiated for the Cap and Trade Program, the associated portions within the MRR also be reviewed and open for revision. WIRA will actively participate in the process when it is started. Even though the CWT approach will not be in effect until 2015, for planning purposes, it is imperative that this work commence early in 2012.

WIRA recognizes and appreciates the difficulty and obstacles that arose during this adoption process that CARB staff had to overcome, but in adopting such a complex and important regulation, public process is key. We have already noted that any additional changes to the MRR based on this open comment period cannot occur during this specific rulemaking. WIRA urges CARB to not only respond to these comments now, but also use them as the basis and starting point for the inevitable first round of regulatory adjustments to the program.

Not only does this regulation affect the entire California economy, but it has the potential to be the model for other regions and states. If additional regulatory proceedings are needed to get it right, then WIRA recommends that they be done as soon as possible.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Craig Moyer", with a large, stylized flourish at the end.

Craig Moyer
Executive Director and General Counsel

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California Air Resources Board
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cc: Mary Nichols
ARB Board Members
James Goldstene
Bob Fletcher
Richard Corey
Edie Chang
Steve Cliff
Sam Wade