The Center for North American Energy Security
Our Fuels. Our Future.

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COMMENTS OF THE
CENTER FOR NORTH AMERICAN ENERGY SECURITY
ON
PROPOSED LOW CARBON FUEL REGULATION
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The Center for North American Energy Security ("the Center") is an organization dedicated to environmentally sound development of oil sands, oil shale and similar so-called "non-conventional" resources in North America. The Center submits the following comments on the October 2011 Proposed Low Carbon Fuel Standard Regulation (LCFS). Our comments focus on the amendments for so-called high carbon intensity crudes. These comments supplement and build upon the August 1, 2008 comments of the Center on the Draft AB 32 Scoping Plan Document (June 2008 Discussion Draft) and the Center's Comments of November 14, 2008, December 16, 2008 and April 22, 2009 on prior drafts of the LCFS Regulation.

Our comments throughout the LCFS process consistently have argued that the carbon intensity (CI) value for all petroleum-based fuels, including the non-conventional fuels, should be the same. As discussed in our prior comments, discrimination among petroleum-based fuels is not necessary to achieve the purposes of the AB 32 program and would in fact be counterproductive. It is not needed to control development of unconventional resources in California, as they are controlled directly by applicable state and federal laws and regulations. The primary effect would be to discourage imports to California of fuels derived from other unconventional resources in North America, such as oil sands in Canada or oil shale in the Western U.S. This would have an inflationary effect on fuel prices in California, as these cost effective North American fuels would not be available. The adverse economic impacts would affect low income citizens disproportionately, an effect that AB 32 expressly seeks to prevent. While the legislation states a goal of contributing to worldwide greenhouse gas reductions, a discriminatory LCFS would not assist in attaining that goal. Fuels barred from California would simply be sold elsewhere, to other states or foreign countries where controls may be more lax and emissions from fuel transportation increased. The California economy would suffer, but worldwide emissions would not be reduced and in some cases would be increased. This is precisely the situation that AB 32 and AB 1007 seek to avoid, in requiring a regulatory program "that is equitable, seeks to minimize costs and maximize total benefits," and "minimizes the economic costs to the state" (secs. 38562(b)(1), 43866(b)(2)).

The current proposal appears carefully crafted to avoid charges of discrimination by foreign producers and to create apparent flexibility for refiners by:

a) using a more recent and realistic baseline recognizing that so called "conventional" crudes are becoming more carbon intensive, while the non-conventional crudes are becoming less so;

b) eliminating the discriminatory basket provisions and grandfathering of CA crudes;

c) simplifying the requirement for complex reporting, including the HCICO method 2B that has been so long in development.

The Center supports each of these proposals as a step in the right direction. However, it does not appear that the proposal would eliminate the discrimination against unconventional crudes that permeates the current regulation.

The problem we see lies with the way the "jurisdictional average" CI apparently would be calculated. "Conventional" crudes are assigned a CI that approximates the type of production method plus a transportation allocation. All crudes with thermal production or high flaring automatically are given a CI of 20 g/mj. The jurisdictional average is a weighted average of the percent production of conventional and high CI crude in that jurisdiction. This system continues to discriminate unfairly against some non-conventional crudes. For example, under this system Canada's rating for the purposes of calculating the CA average CI would be 18.43 g/mj - being 89% at 20 g/mj and 11% at 5.75 g/mj. In contrast, only about 50% of CA production is thermally produced and its conventional value is 4.38 g/mj. Accordingly, the jurisdictional average for CA crudes would be 12.08 g/mj -- well below the Canadian value. Similarly, Venezuela, where the conventional CI is 6.54 g/mj, but 54% of production is thermal, would have a jurisdictional rating of 13.41.

These values, along with the percentage of each jurisdiction's contribution to the CA fuel pool, would be used to arrive at the CA weighted pool carbon intensity. In theory, the discrimination has been removed in that CA and Venezuelan crudes are not grandfathered. In practice, a substantial barrier would remain against use of non-conventional crudes from Canada and other jurisdictions. This would be true even though on a barrel for barrel basis the CI of each of the three crudes discussed above is very similar. For these reasons, we continue to believe that a single crude pool is the most effective and non-discriminatory approach, and that the true value of the LCFS lies not in the lifecycle emissions from crude supplies but in diversification of the transportation fuel mix in CA.

Conclusion

The proposed LCFS amendments would take a step in the right direction by recognizing the unjustified discrimination against non-conventional crudes that permeates the current regulation and attempting to correct it. However, the proposal would continue to discriminate unfairly against non-conventional crudes from Canada and other jurisdictions. Such discrimination is not necessary to effectuate the purposes of AB 32 and is likely to work against them. The Center urges that this proposal should be abandoned in favor of a single standard for all fuels derived from petroleum-based resources, including those from heavy-oil reserves, EOR resources, oil sands and shale oil. If a discriminatory standard is retained, full credit for all deployed mitigation measures should be allowed, including offsets and/or carbon credit purchases or fees.

Respectfully submitted,

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