



BP America, Inc

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**Via Email and Electronic Submittal**

Dan Sperling  
California Air Resources Board  
1001 I Street, Sacramento CA

Subject: California Low Carbon Fuels Standard – Treatment of Crude Oil

Dear Dan:

Thanks for taking the time to meet with me earlier today to discuss the California Low Carbon Fuel Standard (LCFS).

As we spoke about, the LCFS is just one of several large, ground-breaking policies that CARB is planning to implement that will impact the production and use of transportation fuels for California. The AB32 cap and trade program and the pending Clean Fuel Outlet regulation are examples of other such policies. Combined, these policies have the potential to set California on the path to achieve its ambitious goals for greenhouse gas reduction – and to set an example for other states and nations. However, if not properly considered, designed and implemented, these policies will not only fail to deliver on the environmental goal, but will unnecessarily harm California industry and consumers, and will provide a cautionary tale to states and countries who are contemplating similar policies. Therefore, it is vitally important that CARB get it right in the consideration of, design and implementation of these policies.

We believe that the primary criteria against which decisions on design of these policies should be measured are 1) will the policy design meet the environmental goal; 2) will it meet the goal in a manner which minimizes impact on businesses that operate in California; and 3) will it deliver the environmental goal at least cost? These criteria are especially relevant given the fact that, despite early assumptions to the contrary, no other US states will be following California anytime soon in the adoption of these sorts of ambitious policies. This means California industry will be competing against industry in

a national and global arena that are not subject to the same costs and impacts of these AB32 policies.

Later this month, you will be considering regulatory amendments to the LCFS. Though we are concerned with many elements of the LCFS – foremost the feasibility and cost effectiveness of the program - BP has worked cooperatively and diligently with staff on the implementation of the LCFS in support of the objective of encouraging the development of lower carbon transportation fuels. However, we believe we have reached an impasse on a crucial part of the regulation - the treatment of crude oil. We believe that staff's current path on the treatment of crude oil will not only further reduce the feasibility of the regulation, but could result in unnecessary and disruptive impact to California refiners and consumers while delivering little or no environmental benefit.

It has been BP's long held position that the LCFS should not differentiate and penalize crude oils – and instead should focus on the primary objective of driving innovation in and deployment of new, alternative low carbon fuels. This position is supported by analysis that shows no environmental benefit from crude differentiation – only potentially severe impact to refiners and consumers.

Differentiation of crude oils in a LCFS is inadvisable for several reasons. First, we believe there is not a reasonable, accurate or fair method to determine the crude oil origin and carbon intensity of any and all crude oil, refined product or intermediate product used in California. For example it would be virtually impossible to reliably account for the origin and carbon intensity of crude oil used in products and blendstocks imported to the state from all over the world. We believe that this is demonstrated, in part, by the fact that staff have spent over two years attempting to develop such a methodology – without success. Very recently, after spending two years attempting to refine one methodology – staff have lunched to a completely new method of attempting to differentiate, and penalize crude oil use in the LCFS. Too much time has been spent, and regulatory complexity introduced, to address a relatively minor portion of the fuel lifecycle, and for questionable environmental benefit.

Second, the purpose of this challenging LCFS regulation, as stated by CARB, is to drive innovation in new, low carbon fuels such as biofuels, electricity, hydrogen and natural gas. The LCFS was never meant, nor is it well suited, to deal with emissions from large stationary sources – such as those associated with the production of crude oil. There are other policies which are much more effective and suitable for addressing those categories of emissions.

Third, and perhaps most significantly, CARB staff have never demonstrated an environmental benefit from differentiating and penalizing crude oils in the LCFS. Instead, they seem to rely on a desire to simply send a signal to worldwide producers of crude. In fact, staff have ignored compelling analysis which demonstrates that a program in California that penalizes certain crude oils will more likely serve to shuffle the distribution of crudes (resulting in an overall increase in GHG emissions) rather than impact upstream production methods in other countries. Studies show definitively that

crude oil that is discouraged by California policy will simply and easily find other markets – where it will incur additional GHG emissions in transport and likely be refined less efficiently.

And finally, while there are no demonstrable benefits from differentiating crude oils in the California LCFS, there is clearly impact to California refiners – and ultimately to fuels consumers from this policy. These impacts are demonstrated in an analysis performed by Wood McKenzie for WSPA which shows significant impact to California refiners from a policy which reduces or penalizes their choice of crude oils.

Moreover, the WM report is not the only analysis to conclude that these crude oil provisions of the LCFS would be harmful to California refiners and consumers. The California Energy Commission (CEC) analysis contained in their recent draft 2011 Transportation IEPR Report underpin the conclusions of the WM study. According to the CEC, these crude oil provisions of the LCFS have “the potential to affect the crude oil selection decisions of California refiners”, that “Replacing a portion of the existing crude supplies and instead using other sources of crude oil could lead to increased crude acquisition costs”, and that these LCFS crude oil provisions “could impact refiner profitability and the ultimate cost of petroleum fuel in California”.

In summary, to support their desire to differentiate and penalize crude oils, staff is assuming environmental benefit where there is none - and ignoring clear evidence of impact to refiners and consumers. As evidenced by the CEC conclusions, staff is asking California consumers to pay higher costs for transportation fuels so that CARB can send an ambiguous signal to foreign crude producers to lower their GHG emissions in foreign countries. How can this possibly be considered prudent California public policy - or a good deal for California consumers? We believe the potential unintended consequences of limiting or penalizing the use of certain crudes in California fuel production are too great to ignore, and that any potential benefits can not be simply assumed.

Importantly, a LCFS that does not differentiate crude oils and therefore treats all crudes as equal, will maintain the same incentive for innovation and investment in lower carbon fuels. We ask your assistance in helping to focus staff on this primary goal of the LCFS and to avoid policies that lead to disruptive and unnecessary impacts to the state’s refining sector and to consumers.

Thanks again for meeting with me this week, and please do not hesitate to contact me should you wish to discuss this matter in more detail.

Sincerely,

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