BP America, Inc

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Via Email
Mike Waugh
California Air Resources Board
1001 I Street, Sacramento, CA 95814

Re: BP America Comments on August 22 CARB Workshop on CA-GREET Model Update

Dear Mike:

BP appreciates the opportunity to submit comments on the contemplated amendments to the LCFS regulations detailed at the workshop on August 22, 2014.

The workshop revealed that staff is considering significant revisions to the carbon intensity values for many alternative fuels pathways as well as for baseline fuels. In some cases, the revisions would increase carbon intensities (CI) by nearly 200%. These contemplated revisions would have significant impacts not only on investments that have been made in good faith reliance on the regulation, but on compliance plans that have incorporated these fuels and pathways, and on the general confidence of the market to rely on the LCFS regulation. We request that CARB adopt a much more deliberative approach to consideration of these changes. This approach would include public workshops held well in advance of any formal rulemaking that review in detail the data upon which the contemplated changes are based, the impact on investments and compliance, the wisdom of making such significant changes to the rules of this regulation at this point and the unintended consequences of these contemplated changes. These points are discussed in more detail below

Full Data Transparency
At the August 22 workshop, staff did not make available the data or analysis to support the contemplated CI changes. Without seeing the data, it is difficult to provide comment on the validity of the new values. The science of lifecycle analysis as well as understanding of related issues such as methane leakage rates continue to evolve – and

are not without controversy. As the new CI values that would be based on this evolving science and understanding, if adopted, will have significant impact on investors and compliance entities, it is vital that consideration of any CI revisions – especially changes as significant as these – start with a full and transparent discussion of the data and analysis upon which the changes are based. We strongly suggest that any regulatory process is put on hold until the data and analysis upon which the changes are based is presented to the stakeholders and that stakeholders are given ample opportunity to comment on the data and analysis.

Impact on Feasibility and Investments
Significantly raising CI values for alternative fuels will have an impact on investments made in reliance on the current LCFS regulation and on the feasibility of what is already a very challenging, possibly infeasible, regulation. For instance, contemplated increases to natural gas and biogas pathways include CI increases ranging from 15% to nearly 200%. For sugar cane ethanol pathways, CI increases are as much as 88%. Companies have made significant, long-term investments in these pathways – and are currently considering future investments. Even at the low end, these changes will impact current investments, significantly altering the economics of these investments - and will put a chill on investments that are being currently considered. At the high end, they make projects uneconomic.

With regard to impact on compliance, to date, natural gas and biogas pathways have contributed a significant amount to compliance. According to the latest UC Davis LCFS Status Review, natural gas and biogas together have accounted for approximately 11% of total LCFS credits – and approximately 90% of non-biofuel LCFS credits[1]. These fuels have provided, and are required to continue to provide, an important compliance bridge while other low carbon fuels such as cellulosic ethanol continue to develop. The contemplated CI increases for these fuels would therefore have a profound effect on regulated entities whose plans have, in good faith, incorporated these pathways into their compliance plans.

Grandfathering/Transition
As both the science of lifecycle analysis and related data on fuel pathways – such as methane leakage - continue to evolve - investors and compliance entities cannot and should not be subjected to constant tinkering of CI values – let alone significant, game-changing shifts in carbon intensities during the current timeframe of the regulation.

Even if, after appropriate vetting through a robust public process, the data and analysis support CI changes to existing fuel pathways, there are real public policy questions about whether or how such game-changing revisions are implemented. Staff should consider what will likely be important and unfortunate unintended consequences of increases to the CI of pathways that capture methane that would otherwise be emitted to the atmosphere under business are usual scenarios. By levying a heavy penalty on these pathways, you are greatly reducing the incentive for projects designed to capture these emissions.

[1] Status Review of California's Low Carbon Fuel Standard, Yeh and Witcover, July, 2014

Moreover, in the recently released pamphlet on Reducing Short-Lived Climate Pollutants in California, CARB states that "The Low Carbon Fuel Standard provides strong financial incentives to use captured methane from landfills and anaerobic digestion facilities as transportation fuels" – and makes similar statements for capture of methane from dairies. If CI revisions on the order of what was presented at the 8/22 workshop are adopted, going forward, significantly less incentive will be in place to address methane emissions from both the LCFS and from any market-oriented regulations that may be focused on short-lived climate pollutants.

Any changes that may be justified, after a full vetting of the appropriate data input and assumptions, should go into effect only after a lengthy, well-noticed transition period. We suggest post-2020 as an appropriate period to make any significant changes to existing CI values. Investors and compliance entities must be able to rely on the regulation over an appropriate time period

We are happy to discuss these recommendations with you in more detail and look forward to a robust stakeholder process on the issue of CA-GREET revisions.

Sincerely,

Ralph J. Moran
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cc Wes Ingram
Katrina Sideco
Hafizur Chowdhury