



Western States Petroleum Association

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Gina Grey

Vice President, Fuels, Climate Policy, Northwest/Southwest Regions

July 25, 2014

Katrina Sideco
Stationary Source Division
California Air Resources Board
Via electronic mail to ksideco@arb.ca.gov

Re: Western States Petroleum Comments on ARB Staff's July 10th LCFS Workshop

Dear Ms. Sideco:

The Western States Petroleum Association (WSPA) provides below our comments on the July 10th staff LCFS workshop. We appreciate ARB staff's attention to our comments, questions and requests. We would like to meet and discuss our issues, since we do have some comments and questions embedded that we believe would be best discussed on a conference call. Please advise me of staff's schedules and I'll then proceed with acquiring WSPA's availability.

WSPA Comments on CARB's July 10, 2014 LCFS Workshop

1. OPGEE 1.1 and Crude CI's

- The amount of information in:
 - a. The OPGEE 1.1 draft C model, and
 - b. the model inputs for the very large number crudes covered, and
 - c. the resulting individual Crude CI values,make it infeasible for us to provide detailed comments or questions at this time. We may have questions or comments in the future up to and including during the formal 45 day rule making comment period.
- With respect to the new Crude CI's proposed for Table 8 - if approved in a late 2014 Board hearing - will the California industry average for CY 2014 (calculated by CARB in mid-2015 and potentially creating incremental crude deficits for refiners' 2016 CARBOB and CARB diesel production) be based on the existing 2010 baseline and crude CI's in Table 8 or the new proposed values? Please explain how this will work with a three year average for the 2014 CY calculation, the 2015 CY calculation, and the 2016 CY calculation.
- Please confirm that, if the 2010 baseline California average crude CI is revised to a new higher number (e.g. 12.81 gCO₂/MJ), then new CI's will be posted in the

regulation for CARBOB, CARB Diesel, and individual year compliance schedule requirements to account for the change in the 2010 baseline values.

2. Credits for Innovative Crude Methods:

As WSPA has stated in previous comments, we continue to feel that the innovative crude provisions add unnecessary complexity to the regulation. In addition, during the March 11, 2014 LCFS workshop ARB stated they would publish a White Paper on this topic, which is not yet available. We continue to await the release of such this White Paper to further understand the background for the proposal.

- WSPA objects to the proposal that only projects installed in 2015 or later are eligible for the proposed credit. The existing LCFS regulation allows for refineries purchasing crude by an innovative method to apply for LCFS credit generation for projects installed in 2010 or later. This new proposal is not consistent with the existing rule and not consistent with other regulatory proposals (e.g. electricity proposals) that allow earlier project installations to generate LCFS credits. It is important that a consistent approach be taken in the generation of credits from projects to ensure that regulated parties are treated evenly and fairly. In addition, there should be no retroactive application to a regulated party's deficit/credit balance for any program changes adopted in this year's rulemaking.
- Notwithstanding the proposed language in 95489 (d)(1)(A)(2), with respect to credits for producing crudes using Carbon Capture and Storage (CCS) as the innovative method, please confirm carbon captured at a crude oil upgrader will qualify as it is part of the "crude oil production facilities" (and the upgrading is already in the calculation of the particular crude's CI by ARB) even if the upgrader is not physically on the same site where the crude is extracted.

95489 (d)(1)(B) proposes that "...Credit generation for CCS projects will only be allowed through the use of a Board-approved quantification methodology including monitoring, reporting, verification, and permanence requirements associated with the carbon storage method being proposed for the innovative crude production method..." Since applications for proposed innovative crude oil production methods are proposed by ARB to be approved by the Executive Officer, quantification methodology for CCS projects should also only need to be approved by the Executive Officer and not the Board. Also, be it Board-approved or Executive Officer-approved, when does ARB expect this CCS project quantification methodology will be in place?

3. Low Complexity / Low Energy Use (LC/LE) Refinery Provisions.

We continue to oppose these provisions and believe it is inappropriate for ARB to be picking "winners and losers" among the refiners in the state and to effectively place those who have made the investments necessary to generate the volumes of refined product demanded by the market at a competitive disadvantage as far as LCFS compliance is concerned.



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We oppose the LC/LE Incremental Deficit proposal, as we have consistently opposed crude differentiation in the LCFS program. If crude slate changes are going to be accounted for, WSPA opposes the treatment of individual refinery carbon intensities separate from the statewide average, particularly where refineries are divided into separate classes.

If ARB moves forward with the LC/LE provision, we support the proposal to limit the LC/LE Refinery provisions only to transportation fuels produced from crude oil.

- WSPA has the following concerns about this approach to crude oil treatment because:
 - The options are already overly complex for refiners and importers.
 - It continues to differentiate between crudes and disadvantage one over the other.
 - It could reward a refinery for past high CI crude use while penalizing a refinery with historically low CI crudes. It is not sensitive to energy security concerns.
 - Allowing some refiners to opt-out of the industry-wide average approach creates a bifurcated market and introduces the potential for fraud given the chain of custody for crude and feed stocks is immensely complex and there is no uniform, verifiable certification scheme. ARB's LCFS regulatory requirements should be fraud resistant and apply equally to all fuel suppliers.
- We believe that the definition of "low energy use refineries" should be based on the lifecycle carbon intensity of the transportation fuels produced. The current proposed definition is based on total energy used at a refinery, and does not take into account life cycle energy use, e.g. whether the energy used per barrel of transportation fuels produced from crude oil for the LC/LE refiner is high or low compared to other refiners in the state. A LC/LE refiner that uses more energy per gallon of transportation fuel produced from crude oil should not be granted special treatment.
- With respect to Low Complexity-Low Energy Use Refineries seeking CI adjustments for the CARBOB and Diesel production from crude oil in 95489 (e)(2), please explain how the volumes of CARBOB and diesel produced from crude oil versus transmix versus "intermediates" are calculated? We request that ARB include a methodology for calculation of these different volumes in the regulation.
- With respect to a Low Complexity-Low Energy Use Refinery's production of CARBOB and/or CARB Diesel that includes a CI adjustment in 95489 (e)(3), how is the obligation for these CI adjusted fuels handled in sales to other regulated parties dealing with fungible CARBOB and CARB diesel? Do these "CI Adjusted" fuels carry with them different information in Product Transfer Documents with respect to CI value versus fungible CARBOB/CARB Diesel?

- During the workshop, ARB staff stated these credits would only be used for compliance obligation by the Low Complexity-Low Energy Use Refinery generating the credit, and would not be eligible to be sold or traded. However the draft regulation does not include any restrictions on how these credits are treated. If ARB moves forward with this proposal, the regulatory language should indicate that the sale and/or trade of any credits generated under the Low Complexity-Low Energy Use Refinery provisions is prohibited.
- In the workshop, WSPA members inquired as to whether the credits ‘created’ for the low complexity-low energy use refiners would in some way have to be made up by the other obligated parties. CARB’s response was “no” and WSPA supports that response. The creation of credits for these provisions, or other proposals by CARB, will incrementally impact the reductions creditable toward the 10% CI reduction goal. It would not be fair to require other regulated parties to ‘make up for’ this impact.
- Formatting in the refinery-specific incremental deficit equations listed in 95489 (e)(4)(B) contains very little spacing between the individual portions of the “If” and “And” statements. It would be helpful for clarity if a line was inserted to increase the space between the "If" and "and" equations to avoid any confusion about subscripts in the upper equation versus potential superscripts in the lower equation.

Sincerely,



c.c. Mike Waugh, CARB
John Courtis, CARB
Jim Duffy, CARB
Stephanie Detwiler, CARB
Stephen d’Esterhazy, CARB
Elizabeth Scheehle, CARB
Jim Nyarady, CARB
Manisha Singh, CARB