

Western States Petroleum Association's Comments on ARB's November 13th LCFS Workshop

CA-GREET 1.8b Pathway Sunset Dates

WSPA supports staff's recommendations for the sunset dates for pathways certified using the CA-GREET 1.8b model version that was presented in the workshop. We are concerned about the ability of staff to have enough time to review and approve all of the existing pathways that currently exist, plus new pathways that will be submitted, prior to formal release of the CA-GREET 2.0 model, and the new pathways that will be needed in the absence of any default pathways under the LCFS re-adoption regulations. Any shortening of the sunset dates could compromise the availability of certified biofuels for compliance with the LCFS.

Refinery Investment Credit Provision

WSPA strongly opposes the additional complex provisions that ARB has added to the refinery investment credit provisions. This added complexity and ambiguity will limit or eliminate legitimate GHG reduction projects from receiving credits. In particular, we oppose the requirement to only approve projects with no increase in criteria or toxic emissions. It is complex, unnecessary, and inequitable when compared to other parties that are participating in the LCFS.

- Complex – while seemingly simple in concept, there are volumes of regulations, guidance documents, and court cases related to air quality permitting where various methodologies are employed for determining what constitutes an increase. For example, some of the questions that arise are: Is it only operational emissions or construction emissions? Is it only direct emissions from the source or indirect emissions? What if it adds personnel – will their driving trips be included? Should the increase be in terms of mass or concentration at sensitive receptors? What is the baseline for determining an increase? What years are picked for the baseline? What if there is an increase – but it is still within the permitted limit for that source or facility? How is it enforced after-the-fact – when other non-related changes at the refinery may occur that impact emissions year to year? The list can go on and on. This is a regulatory quagmire for ARB since any attempt to address or clarify these issues in the regulation could double the size of the regulation and create substantial litigation risk from various parties.
- Unnecessary – the CEQA process and robust air quality permitting processes are more than adequate to reduce the likelihood of an increase, mitigate any increase, or ensure that the increase is within regulatory limits that are protective of the community and the environment. ARB should limit their scope to GHG emissions and allow the other environmental programs to deal with criteria and toxic emissions.
- Inequitable – there is no effort by ARB to address contemporaneous criteria and toxic emission impacts for any of the other credit generating parties in the regulation. Is this being addressed for innovative crude projects or modifications at alternative fuel facilities for improving their fuel pathway CI? Is this addressed for the construction of natural gas fueling stations or for receptors near the power plants that generate the electricity for new charging stations?

WSPA asks that ARB, at a minimum, eliminate the criteria for no increase in criteria or toxic emissions. Moreover, we ask that ARB eliminate the capital project requirement, any distinction based on historic refinery efficiency, and the complexity of a CI based metric and references to petroleum products consistent with prior WSPA comments (below).

ARB should keep this simple and allow the applicant to demonstrate that a project or initiative implemented since 2010 will have a decrease in GHG emissions post-2016 and work with the applicant on appropriate, on-going monitoring provisions to ensure that the decrease is real, verifiable, quantifiable and sustainable. ARB should make this as simple as possible to begin with, see what applications come in, and then refine further going forward. The complexity of the current proposal presents huge barriers to legitimate, creditable projects.

Previous WSPA Comment

• *In proposed section “95489 Provisions for Petroleum-Based Fuels”, calculation of credits in 95489(2) includes the term “ $Volume_{Total} = \text{total volume of product output in bbls (bbl)}$.”*

Our first reaction was to suggest ARB needs to define and explain what “total volume of product output” for a refinery means. Therefore, for this provision of the LCFS, what are refinery “products”?

However, after careful thought, we would like to keep the approach simple. As an alternative to a potentially complex definition of refinery “products” (e.g. not just finished fuels only but also refinery intermediates requiring further processing at another location? sulfur? butanes? other?), WSPA recommends that ARB change the denominator in the term, “ $T = \text{percentage of transportation fuel produced}$ ” from “total volume of product output...” to the “total volume of crude oil supplied to the refinery (bbl).”

HD EERs

We appreciate ARB posting the testing data related to the proposed EER value for electric buses. However, the short time frame to review the posted data is not adequate. WSPA respectfully reserves the right to submit comments at a later date regarding the proposed EER value.

In addition, we have several questions relative to the inclusion of the new EER value, specifically around applicability:

- a. Will the proposed EER only be for new electric buses such as those used for testing purposes? If so, the regulation needs to clearly specify when it is applicable to use the EER.
- b. Will the proposed EER be used for existing electric powered buses (e.g. cantilever electric trolleys / buses such as are used in San Francisco MUNI system)?
- c. If so, what evidence or information does ARB have to indicate the new test data is applicable for existing installations?

Reporting & Recordkeeping

In conjunction with ARB’s ongoing collaboration with British Columbia, Oregon, and Washington, we recommend that ARB consider adopting language similar to that included in the

British Columbian “Greenhouse Gas Reduction (Renewable and Low Carbon Fuel Requirements) Act.” Specifically, provisions included under “Part 3 — Low Carbon Fuel Requirements; subpart 8 Transferring credits and debits”, where the director positively validates credits generated under the British Columbia low carbon fuel standard and validated credits are “conclusively deemed to be valid” for compliance calculations.

In the proposed regulatory language, specifically at Section 95491. Reporting and Recordkeeping (A) Reporting Requirements (1) Reporting Frequency:

The two quarterly report due dates should be 45 days after the end of the quarter for the upload of data in the LRT-CBTS and 45 days after that for the quarterly report to be submitted in the LRT-CBTS.

Like ARB, WSPA also wants accurate and timely data. However, this is the only fuels program in the U.S. where all of the bulk transactions for gasoline and diesel transportation fuels (including biofuels) must be reported from production to the final bulk sale. This is a major undertaking. Just looking at bulk ethanol deliveries to truck racks, there is on average over 35,000 transactions in the state each quarter. It is not unusual for business partners to have hundreds to thousands of transactions between each other in a given quarter.

All of these transactions first have to be uploaded into the LRT-CBTS. In order to account for the normal 5 to 7 business days required for Accounting to close (finalize) the previous month’s volumes and adequate review of the data before it is uploaded into the LRT-CBTS, more than 30 calendar days is needed. 30 calendar days equates to only 21 business days and the first 5 to 7 are spent closing the prior month’s books leaving only 14 to 16 business days to adequately review this large volume of data.

After the data is uploaded 45 calendar days are needed to work in good faith with counter-parties to resolve any fuel transactions discrepancies. If a discrepancy with a business partner is identified, the two parties must then compare the several or hundreds or thousands of individual transactions that took place in the quarter and identify and correct any discrepancy. Just finding the transaction(s) that resulted in the error is time consuming and is a manual process. Correcting the error and the back and forth communications and inherent time delays are why 45 days are essential.

Also in the proposed regulatory language, specifically at Section 95491:

Reporting and Recordkeeping item (5) “The regulated party must maintain a non-negative value for each FPC Obligated Amount, as defined in Section 95481, as summed across all quarterly data in the LRT-CBTS” needs clarification.

To account for inventory carryover from quarter-to-quarter and year-to-year, the non-negative sum must apply to “all quarterly data in the current and prior years in the LRT-CBTS”. If the summation is applied only on an annual or shorter period, the impact of physical inventory carryover could result in an inability to comply when the obligated party is in fact in compliance.