



Western States Petroleum Association
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Vice President

February 28, 2017

Mr. Sam Wade
Branch Chief
California Air Resources Board
1001 I Street
Sacramento, California 95814

sent via email: LCFSworkshop@arb.ca.gov

Re: WSPA Comments on ARB January 31, 2017 Ethanol Working Session

Dear Sam,

The Western States Petroleum Association (WSPA) appreciates this opportunity to provide initial feedback on the California Air Resources Board (ARB) staff presentation at Low Carbon Fuel Standard (LCFS) - Ethanol Working Session, held on January 31, 2017 in Sacramento, CA. WSPA is providing these comments as part of a continuous effort to provide feedback on the LCFS-related items presented by ARB. WSPA is a non-profit trade association representing companies that explore for, produce, refine, transport and market petroleum, petroleum products, natural gas and other energy supplies in California and four other western states. The following comments are not only applicable to Ethanol but also to other biofuels supplied to California users.

Pathway CI Value Tolerance Approach

WSPA strongly recommends that ARB allow for a producer of biofuels to achieve a positive audit finding (also referred to as a materiality threshold) by allowing the actual annual average CI value to be within 5% of the pathway CI value (or alternatively a +/- 2.5 CI value tolerance). For ethanol, WSPA believes that this is fair considering that there are variables not under control of the ethanol producer such as, but not limited to, corn starch content and ambient temperature. There is precedent in setting a 5% tolerance level in the Mandatory Reporting Regulation (MRR).

WSPA believes that taking the added headroom approach to the biofuel pathway CI value, as proposed by ARB staff, will have several undesirable consequences, including but not limited to: (1) increase compliance liability, 2) potentially drive up product costs, and (3) provide no credit to the ethanol producer if the actual audited CI is lower than the pathway CI. This approach does not on the surface appear fair to those parties producing alternative fuels with lower CI values.

Further, WSPA does not agree with staff's position that ethanol producers should be held to their pathway CI to 0.01 CO₂e/MJ. This stringency is orders of magnitude more than many of the assumptions in the CA GREET model and the indirect land use change factor. ARB staff should keep in mind the rigorous pathway data submission process and that the CI approved by staff is based on a two year average.

WSPA suggests that ARB consider developing guidelines that could be incorporated into the auditing procedure such as checking that a significant amount of the monthly values were within +/- 3 standard deviations based on the pathway submission and/or other widely accepted Quality Assurance and Quality

Control (QA/QC) procedures that could potentially be required in order for the 5% factor to be applicable.

Exports Below the Rack

As part of the discussion around gasoline and diesel blend exports, ARB staff has referred to exports of the E10, E85, and B5 and a requirement to report the renewable fuel component of these exports. Given that the LCFS obligation in California ends at the terminal rack, this proposed guidance is confusing and problematic. The regulations do not allow the transfer of obligation below the terminal rack, meaning that the owner of the fuel prior to the loading of a truck is the last regulated party for that fuel. If that truck then happens to deliver to a station outside California (which would be unusual), there is no mechanism in the regulations for reporting that delivery as an export. This is particularly true where the sale at the terminal rack is to a marketer supplying its own customers. The seller in that case would not necessarily know the destination of the truck and would therefore be in no position to report an export and it's very likely that the marketer would not be a regulated party under the LCFS. Regardless, the seller would have no ability to transfer the LCFS obligation for the fuel to any customer below the rack. Any guidance ARB may issue related to renewable fuel exports should clearly state that it does not apply to activity below the terminal rack. This will help to avoid confusion.

ARB staff has commented that the LCFS regulations require that fuel produced for use in California must be used in California. This is not correct. The regulations do require the reporting of production or import of fuel intended for use in California, but do not state that that fuel must then be consumed in California. While it is true that exports must be reported, there is significant flexibility within the regulations for ARB to provide guidance that allows regulated parties to allocate CI pathways to those fuels and therefore maintain an efficient California fuels market and maximize compliance capabilities for regulated parties.

WSPA appreciates this opportunity to provide our initial input regarding the Ethanol Working Session. If you have any questions, please contact me at (805) 701-9142 or via e-mail at tom@wspa.org.

Sincerely,



cc: Catherine Reheis-Boyd - WSPA