



Western States Petroleum Association
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Vice President

June 6, 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 2nd Biodiesel and Renewable Diesel 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) – 2nd Biodiesel and Renewable Diesel Working Session, held on May 15, 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 Biodiesel and Renewable Diesel but also to other biofuels as well.

On March 10, 2017, WSPA provided feedback on the ARB staff presentation at 1st Biodiesel and Renewable Diesel Working Session, held on February 10, 2016. Therefore, the comments provided below augment that prior feedback.

Pathway CI Value Tolerance Approach

As stated in our previous comment letter, WSPA strongly recommends that ARB define an acceptable tolerance on CI certification. For instance, if CI is verified to be +/- 5% of the certified CI, there should be neither penalty nor credit reduction associated with the CI discrepancy. As an alternative, a fixed tolerance of CI (such as +/- 2.5 CI number) would be acceptable.

GREET 3.0 Model

With regard to GREET 3.0 Model, it is not clear if the transport section includes a transport mode as it appears to include only distance. It is requested that ARB ensure a transport mode is included in the transport section of the model.

Withholding Unreconciled Credit Transactions

WSPA appreciates ARB's concept that by providing for rigorous reconciliation, the verification component for these fuel transactions may be truncated or simplified. We believe that in cases where both parties have reported and there is just a discrepancy between the reported values, being able to avoid additional verification by reconciling will provide ample incentive without necessarily freezing the credits.

The more substantive concern is with those cases where reconciliation cannot be achieved solely because one party did not report. In such cases, WSPA does not believe that the party who reported in good faith, and can provide documentation supporting the information reported, should be punished for another party's failure to report. Rather, ARB should not freeze the credits in the account of the party who reported. At most, ARB should subject any unreconciled credits owing to the lack of reporting by a party to verification but should not freeze the credits.

Exports of Renewable Fuel Blends

WSPA appreciates the adjustments ARB has made to the proposed guidance on reporting exports of renewable fuel blends. We note that if ARB does desire to go in the direction of reporting renewable export content, then it is appropriate to designate responsibility for reporting exports. If the product crosses the border, the owner of the product as it crosses the border is the appropriate responsible party (as it is that party who is in control of the product's ultimate destination). The exception for above the terminal rack deliveries with an out-of-state destination is also reasonable as it avoids the necessity of adding out-of-state station owners as regulated parties. WSPA also supports the flexibility provided for blends containing up to 5% renewable diesel or biodiesel. Allowing these blends to continue to transfer as 100% CARB Diesel will partly alleviate the supply chain challenges of attempting to avoid incidental exports of renewable fuels.

WSPA continues to be concerned about the unintended consequences of requiring that credits be surrendered for the export of higher-level renewable fuel blends. The FTC labeling requirement does provide an easy-to-use threshold for this reporting. However, the FTC renewable diesel labeling requirement is arbitrary by nature and does not indicate a fundamental difference in the fuel, either for performance or environmental purposes. WSPA continues to believe that diesel fuel blends should be transferrable as 100% CARB Diesel, regardless of blend level, providing that the transfer does not cause a negative balance for a given fuel pathway. This will allow the supply chain to function efficiently and allow regulated parties to maximize the blending of renewable fuels as the LCFS intends.

ARB staff has expressed concern that a verification auditor may take issue with an LCFS obligation transfer of product as 100% CARB Diesel if a bill of lading or similar document indicates that the product may contain up to 20% renewable fuel. We respectfully point out that ARB will be writing the rules by which those verification audits will be performed. If ARB guidance or regulatory language indicates that such a transfer is permissible, an auditor will have no concerns. WSPA strongly requests that ARB set a January 1, 2018 effective date, at the earliest, for this guidance, in whatever final form it takes. It will likely be necessary to adjust contractual arrangements for some suppliers to address the supply chain issues in question and such matters can take months to resolve.

Exports below the Rack

WSPA still has concerns that any reporting requirements below the rack will be impossible to administer as many of these parties are not obligated parties under the LCFS. By operation of the rule, obligation is not passed below the rack so many parties are not subject to the regulation. This administrative burden coupled with the fact that lifecycle emission reductions were achieved regardless of where the renewable fuel content is consumed should dissuade ARB from pursuing this path.

WSPA understands ARB's recommendation on blends of biodiesel or renewable diesel of 5% or below to be that if exported – they can be reported as 100% ultra-low sulfur diesel (ULSD). In this case, the renewable credits with the small amount of blended biofuel will remain intact in the last obligated parties account. WSPA believes that this is a positive development and would like ARB to confirm our understanding.

If the ULSD is ultimately exported below the rack (with or without renewable content), but those exports are not reported, the environmental integrity holds because more deficits will be accounted for in-state than necessary. There is no benefit to the program for exporters below the rack to report these exports. WSPA recommends ARB not require reporting of these exports, but still enable LCFS Reporting Tool (LRT) functionality should an export be done below the rack by an obligated party so they can voluntarily report the export.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Tom Wade", written in a cursive style.

cc: Catherine Reheis-Boyd - WSPA