

December 14, 2010



Ms. Mary Nichols, Chair  
California Air Resources Board  
1001 I Street  
Sacramento, CA 95814

Tesoro Companies, Inc.  
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San Antonio, TX 78259  
210 626 6000

*Electronic Submittal:*

<http://www.arb.ca.gov/lispub/comm/bclist.php>

Subject: CARB Proposed Regulation to Implement the California Cap-and-Trade Program

Dear Ms. Nichols:

Tesoro Corporation is an independent refiner and marketer of petroleum products. Tesoro operates seven refineries in the western United States with a combined capacity of approximately 660,000 barrels per day. We operate the Golden Eagle refinery in Martinez, CA and the Los Angeles Refinery located in Wilmington, CA.

Tesoro is a member of the Western States Petroleum Association (WSPA) and we have participated in the development of comments submitted by WSPA to CARB regarding the Proposed Regulation to Implement the California Cap-and-Trade Program. Tesoro concurs with and hereby incorporates by reference comments submitted by WSPA.

The Cap and Trade regulation is an unprecedented effort to regulate greenhouse gas emissions with significant implications to the state's economy. Specifically, the refining industry is highly trade exposed and we believe that the treatment of the refining sector as proposed in the draft regulation will result in significant leakage in the second and third compliance periods. This will result in a major negative impact to this value added California industry. We recommend that ARB revise its conclusion that the refining sector is medium trade exposed in the second and third compliance periods, and instead, find that this sector will be highly trade exposed.

Additionally, we believe that the treatment of fuels under the cap in 2015 will place an unreasonable burden on producers and/or consumers of those fuels in California. We encourage CARB to reconsider placing fuels under the Cap as they are already covered by a host of other regulations (Federal RFSII, LCFS, Pavely, etc).

Finally, we have worked diligently with other WSPA members in the development of the tempered EII approach to allocation for the first compliance period and are encouraged by your mention of this approach in the proposed regulation. Our internal work has shown the CWT methodology adopted in Europe is inadequate in terms of recognizing and rewarding improvements in processing technology or efficiency and that it exaggerates the carbon intensity differences between refineries relative to realistic opportunities to reduce carbon intensity. The tempered EII approach allows a measured approach towards benchmarking for the first compliance period while developing a more comprehensive approach for the future.

There are three issues of particular importance to Tesoro, which we ask you to specifically consider.

First, our Coker Modification project, completed in 2008, has resulted in reduced CO2 emissions of an estimated 462,000 tonnes/yr. In response to our request for "Early Action Credit" for this project CARB's letter of April 10, 2010 stated that the project would "save Tesoro millions of dollars per year in the form of either a reduced need to purchase allowances at auction or in the form of allowances given for free". While the WSPA proposed tempered EII methodology may result in realizing these savings, appropriate setting of the baseline years as allowed in the regulation will ensure our investment is recognized; specifically, the historical baseline for emissions must be based upon the most representative certified data from the time period 2006-2010. We also request that ARB consider a specific treatment of this project if it becomes impossible to adequately address this issue within the scope of the allocation method.

Second, our Golden Eagle refinery sells CO2, a byproduct of hydrogen we manufacture, to a third party which purifies the CO2 and distributes it to final uses. The proposed regulation defines the point of regulations for industrial CO2 as the supplier of CO2 because they are involved in the sale and delivery of the gas for commercial use. Because process emissions associated with hydrogen production include all process CO2 emissions, CO2 purchased from hydrogen plants by CO2 suppliers should not be subject to a requirement for allowances. Doing so would in essence double count this CO2 in terms of the allowance calculation.

Third, the proposed regulation is not adequate in its treatment of combined heat and power (CHP). Third party CHP's serving the refining industry should be treated as part of the refining sector with respect to electrical and thermal energy distributed to a refinery and as part of the power sector with respect to electrical energy distributed to utilities.

Sincerely,



Daniel T. Riley  
Vice President  
State & Local Government Affairs