Jim Verburg
Director, Fuels

August 8, 2022

Sent via e-mail and upload to: https://www.arb.ca.gov/lispub/comm/iframe_bcsubform.php?listname=lcfs-wkshp-jul22-ws&comm_period=1&_ga=2.85577753.167319428.1658172472-237475923.1631295388

Dr. Cheryl Laskowski
Branch Chief – Low Carbon Fuel Standard
California Air Resources Board
1001 I Street
Sacramento, CA 95814

Re: WSPA Comments on CARB Workshop to Discuss Potential Changes to the LCFS

Dear Dr. Laskowski,

Western States Petroleum Association (WSPA) appreciates the opportunity to comment on the staff presentation at California Air Resources Board (CARB) Workshop to discuss potential changes to the Low Carbon Fuel Standard (LCFS) held on July 7, 2022. WSPA is a trade association that represents companies that provide diverse sources of transportation energy throughout the west, including California. This includes the transport and marketing of petroleum, petroleum products, natural gas, renewable fuels, and other energy supplies.

Provided below is WSPA's initial feedback on CARB's proposed changes in the LCFS Program as presented to stakeholders by CARB staff on July 7, 2022:

LCFS is a Critical Part of California's Climate Portfolio - The last bullet point on Slide 9 of the CARB staff presentation states: *"Providing long-term price signals needed to support transition to ZEVs and decarbonizing remaining liquid fuel demand."* The LCFS program should remain fuel/energy carrier neutral and not privilege ZEV technology to the detriment of liquid or gaseous fuels. The carbon intensity (CI) is the referee in the LCFS program, so if a liquid or gaseous fuel with low CI values can compete with ZEV technology, CARB should ensure these technologies remain available in the program and are treated fairly, as enablers of carbon reductions.

Accelerating 2030 Target to 25% or 30% - The CARB staff presentation (Slide 12) introduced a proposal to potentially accelerate the LCFS (CI) reduction targets to 25% or 30% by 2030. WSPA is concerned that this proposal has been presented to stakeholders without the illustrative compliance scenarios necessary to demonstrate potential pathways to achieving these targets. WSPA encourages CARB to hold a series of workshops focused on this topic and direct engagement with stakeholders as soon as possible. The illustrative compliance scenarios should, at minimum, include an assessment of the demand for low CI fuels among the western states and Canada as multiple low carbon fuel programs drive competition.

Post-2030 CI Targets - While setting aspirational long-term targets can be a signal to encourage investment in low-carbon alternatives, these targets would be arbitrary and established without sufficient underlying analysis and thus are unlikely to be effective. It is also important to note that the Scoping Plan already serves to provide direction for programs like the LCFS. As one of the key elements for a successful Scoping Plan, the LCFS should be focused on nearer-term goals that are supported by peer-reviewed analysis and proven technologies.

WSPA recommends that CARB set LCFS targets no further out than 2030 and consider setting targets for years that are currently more than 10 years out with the next rulemaking.

Market Signals versus Market Disruptions - CARB has built the LCFS program with an intent to provide a market signal for investment. WSPA member companies are working to support California's policy goals and reduce emissions in the transportation sector. WSPA is concerned about the broader impact of CARB's proposal to remove forklifts as a credit generator. This proposal tells regulated entities CARB is reviewing and determining which technologies are in or out of the program based on the metric of "maturity" without discussing the criteria it used to make this assessment. In 2015 when CARB brought into the LCFS the forklift crediting provision it did so with no expiration, subsequent credit provisions bolted onto the program have included expirations and limits that signal CARB's intent to monitor the adoption rates and perceived maturity of a technology. By introducing the concept that a credit provision can simply be stripped from the program creates a disruption. A logical follow up question is "what comes next?" WSPA opposes the concept of using an arbitrary term like "maturation" in the LCFS program, without any discussion on the criteria used to determine if a technology is mature.

MHD HRI/FCI Crediting - For both hydrogen refueling infrastructure (HRI) and fast charging infrastructure (FCI) crediting, WSPA encourages CARB to pursue a practical approach to calculating refueling facility capacities. It was suggested by CARB staff during the workshop that infrastructure credits would be assessed separately for light duty (LD) vehicles and medium/heavy duty (MHD) vehicles. CARB staff's current methodology for applying this distinction is to require separate infrastructure at each fueling location, meaning separate storage, piping, and dispensers for each vehicle type. This is an impractical, inefficient use of resources that will discourage facility expansion. If infrastructure credits are to be a part of the LCFS, they should be applied equitably and efficiently. WSPA urges CARB to work with stakeholders to find a practical solution for assessing the capacity of facilities serving both LD and MHD vehicles.

Arbitrary Pathway Caps - WSPA opposes arbitrary caps on fuel pathways. An example is crop-based biofuel. While we share CARB's concern for food security and any unintended consequences from low carbon fuel programs, a compelling case has not been presented for this proposal. Setting such limits requires a thorough, independent analysis that demonstrates a measurable impact to land use due to crop-based feedstocks used for fuel production. WSPA encourages CARB to continue prioritizing sustainability as part of the LCFS, but objects to any further limitations. CARB already establishes indirect land use change (ILUC) values for crop-based biofuels which is in addition to the production and transportation emissions that together makes up the CI value of the renewable fuel produced from crop-based feedstocks. Therefore, CARB should not create an additional penalty or set an arbitrary limit on the volume of crop-based feedstocks in the program. CARB should work to incentivize the production and use of feedstocks produced sustainably, not limit one of the most important and effective tools CARB has to reduce emissions from the transportation sector.

Pathway Approvals - WSPA believes that the current pathway application review process has inefficiencies that are cumbersome in workload burden to both CARB staff and pathway applicants. A significant restructuring of the process is recommended with input from regulated parties. At minimum, enhancements may include credit true-ups back to a facility's startup date and the approval of provisional pathways from startup of the renewable fuel production. WSPA requests that CARB adds in the LCFS regulatory language a deadline for CARB staff to review a pathway application. If CARB has not reviewed the pathway application within 60 days, the pathway application shall be deemed complete and opened for third-party verification.

Renewable Hydrogen Definition - WSPA believes that all renewable light hydrocarbons, not only biomethane and renewable natural gas (RNG), should have the same consideration as RNG in the LCFS regulation, including for the production of hydrogen. Renewable feedstocks should not be limited to pipeline quality biomethane and RNG in the production of renewable hydrogen. As such, facilities that produce both renewable fuels and hydrogen will utilize internally produced fuels like renewable ethane, renewable propane, renewable butanes, renewable pentanes, and renewable C6+ as feedstocks to produce hydrogen and should qualify for the production of renewable hydrogen. WSPA requests that the definition of renewable hydrogen be expanded to include the use of renewable light hydrocarbons for the production of renewable hydrogen. In addition, renewable hydrogen produced from renewable light hydrocarbons should qualify under the Hydrogen Refueling Infrastructure provision of the regulation for lower emission factors than hydrogen produced from fossil natural gas. The provisions above should apply regardless of whether the renewable feedstocks used to produce renewable light hydrocarbons are waste oils, fats, used cooking oil, distiller's corn oil or "fresh" vegetable oils, such as soybean or canola oils.

Verification - With verifications nearing completion for the second year under the LCFS, CARB should engage regulated parties and verifiers to seek feedback on the process and identify opportunities for improvement.

Aviation Fuel - WSPA would appreciate seeing more details regarding the proposal to obligate intrastate fossil jet fuel (i.e., where the point of obligation would be and how it would be executed). In general, WSPA believes that CARB cannot obligate jet fuel used for intrastate flights.

Much of the aviation industry is inherently interstate and international, making this sector particularly appropriate for the federal government to regulate. As such, 42 U.S.C. § 7573 preempts states from adopting or enforcing *"any standard respecting emissions of any air pollutant from any aircraft or engine thereof unless such standard is identical"* to USEPA's standards. On January 11, 2021, USEPA adopted new greenhouse gas (GHG) emission standards that apply to apply to civil subsonic jet airplanes and larger civil subsonic propeller-driven airplanes.[1] Notably, the standards are equivalent to the airplane carbon dioxide standards adopted by the International Civil Aviation Organization in 2017.[2] In the preamble to the final rule, USEPA notes, *"These standards will ensure control of GHG emissions, maintain international uniformity of airplane standards, and allow U.S. manufacturers of covered airplanes to remain competitive in the global marketplace."*[3] Thus, CARB should account for emission reductions in the aviation industry due to compliance with the new federal GHG emissions standards for airplanes, but should not presume that it can impose more restrictive emission standards than exist at the federal level.

In addition, intrastate fossil jet fuel represents a small fraction of jet fuel supplied in California and jet fuel suppliers do not know how much of the fuel is consumed intrastate versus interstate or out of the country. This makes compliance with the proposed obligation extremely complicated.

[1] Control of Air Pollution From Airplanes and Airplane Engines: GHG Emission Standards and Test Procedures, 86 Fed. Reg. 2136 (Jan. 11, 2021).
[2] *Id.* at 2137.
[3] *Id.* at 2138.

WSPA appreciates the opportunity to provide comments on this important regulatory process. If you have any questions regarding this submittal, please contact me at (360) 296-0692 or via email at jverburg@wspa.org.

Sincerely,

James Verburg
Director, Fuels
WSPA