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(Submitted electronically as Comment to LCFS Public Workshop)

Arpit Soni
Manager, Alternative Fuels Section
1001 I St #2828
Sacramento, CA
95814

RE: Comments on Low Carbon Fuel Standard (LCFS) Amendments

Dear Mr. Soni,

On October 14th and 15th, 2020, the California Air Resources Board (CARB) held a two-day workshop to present a number of potential revisions to the Low Carbon Fuel Standard (LCFS) Regulation. Among these include revisions to eligibility criteria for Carbon, Capture and Sequestration (CCS) projects. The Western States Petroleum Association (WSPA) appreciates the opportunity to comment on the proposed LCFS amendments and notes that additional comments on revisions related to CCS projects will be submitted to CARB in a separate comment letter.

1. Day 1 Workshop Comments

The following comments are in reference to the CARB presentation¹ given on Day 1 (October 14th) of the LCFS workshop.

General Comments

WSPA appreciates the logic in staff's approach to have the Scoping Plan Process determine how to best align the LCFS with the recent Executive Order (EO) N-79-20 issued by Governor Newsom. Before any amendments associated to the EO are made to the LCFS, CARB must conduct a comprehensive review of electric vehicles (EVs) pursuant the EO, inclusive of infrastructure requirements, costs and implementation feasibility. That review should consider all forms of transportation energy through a broad review of various technologies and properly recognize earlier emission reductions that can be made with renewable fuels. A comprehensive greenhouse gas analysis needs to be conducted in order for CARB to make a fair assessment of the potential GHG emissions benefits for different policy choices.

¹ CARB LCFS October 14th, 2020 Presentation. Available at: https://ww2.arb.ca.gov/sites/default/files/2020-10/101420presentation_carb.pdf. Accessed October 2020.

Given the potential for alternative non-BEV technologies to achieve emission reductions, CARB should conduct a technology neutral analysis which considers the “cradle-to-grave” costs of all potential policy alternatives.

Rulemaking Scope and Timeline

WSPA supports CARB’s proposal to defer updating of long-term targets (inclusive of responses to EO N-79-20) to future rulemaking, as this would allow the higher-level Scoping Plan process to be finalized prior to making such updates.

Credit True-Ups for Temporary Pathway Carbon Intensity (CIs) (CARB Presentation Slide 15)

WSPA supports CARB’s proposal to allow Tier 1 and Tier 2 pathway applicants the option to request a true-up of credits generated under a temporary pathway and requests that CARB offer this option for provisional pathways as well. This will enable a more efficient application process, while ensuring that applicants do not forego fair value of initial credits generated in the first months of production and receive recognition of previous emission reductions. Credit true-ups can also help prevent leakage of values to stakeholders who take the business risk to bring new low CI fuel investments to market. WSPA believes that such true-ups should be optional for the applicant.

Energy Economy Ratios (EERs) (CARB Presentation Slides 17-19)

WSPA encourages CARB to adopt a broader set of EER’s based on vehicle type and age. The current EER’s do not reflect the wide range of electric vehicles (EVs) on the road today. As the EV population grows, this is particularly evident on the heavy-duty side. CARB could more accurately reflect the emission changes relative to its petroleum counterpart. WSPA encourages CARB to update the EER’s every three years in parallel with other model updates.

Default Blend Percentages (CARB Presentation Slide 23)

The use of default blend percentages continues to be problematic in situations involving low or unknown renewable fuel blend levels. By establishing default blend percentages where the renewable content of fuel leaving the state is unknown, CARB is discouraging any blending at all for segments of the supply chain where such exports may occur. The high cost of LCFS credits in these situations results in bifurcated supply lanes for no practical purpose. WSPA strongly recommends that CARB eliminate default blend percentages for export transactions.

Third-Party Verification of Electricity Transactions (CARB Presentation Slide 34)

Given the increasing volume of credits being generated by electricity pathways, third-party verification should be required for these pathways. . This will provide greater confidence to the validity of these credits when placed into the market.

Joint Applicants for Project-Based Crediting Applications (CARB Presentation Slide 40)

WSPA supports the extra flexibility provided by the broader approaches proposed for joint applicants for project-based crediting applications. It is important not to artificially constrain creative solutions being developed by parties working collaboratively; this can happen with overly rigorous approaches to applying for a project developed in this manner.

Third-Party Validation for Petroleum Projects (CARB Presentation Slide 41)

WSPA is concerned that third-party validation for Petroleum Projects renders an already difficult application process even more onerous. If such a proposal is progressed, there should be no limitation to the use of the same verifier to perform both validation of pre-project data as well as the actual application data as well.

Prorating Credits based on Oil and Gas Export (CARB Presentation Slide 43)

WSPA is concerned that the proposal for prorating credits could disincentivize new projects and harm existing projects in the LCFS program. Specifically for innovative crude projects, production of associated gas is operationally integral with produced oil and natural gas liquids until separated and transacted to a common carrier pipeline. Associated gas and the field processes inherent with it are intrinsically tied to oil production, and energy production should not be prorated.

Further, prorating gas production would be inconsistent with the manner other co-products are treated in the life cycle analysis of California fuels. For example, distiller's grains from ethanol production generate an emission credit in the lifecycle analysis of ethanol owing to its displacement of corn to feed cattle. Similarly, in-state production of natural gas should be credited (not prorated) toward the life cycle of the oil, inasmuch as the gas has a lower CI owing to the lack of transportation emissions from out of state, and displaces gas produced out of state.

Oil Production Greenhouse Gas Emission Estimator (OPGEE) Update (CARB Presentation Slides 46)

CARB should consider updates to the OPGEE model related to vessels in transit, provided the international fleet is turning over, to recognize changes to engine performance and fuel specifications. Relying on outdated emission factors not reflective of actual operations places an undue burden on regulated parties. CARB should encourage the Energy Resources Engineering Department at Stanford University to evaluate the impacts of these changes to fleet emissions.

Regarding the development process, CARB should ensure that a robust stakeholder review process is incorporated into the update of the OPGEE model. Future OPGEE model workshops should release draft documents and materials before the workshop date with sufficient time for stakeholders to review and provide substantive comments. WSPA also request that an analysis be provided for the impact of each crude CI with the new OPGEE model, as well as impact to future average crude CI and potential incremental deficits.

2. Day 2 Workshop Comments

On Day 2 of the LCFS workshop (October 15th), multiple stakeholders presented innovative proposals to the LCFS regulation.² WSPA supports innovation as it is a key aspect to our principles to explore innovation to deliver cost effective, reliable, and ever lowering carbon intensity fuels to the marketplace. Each of these proposals offer a different opportunity for CARB to enhance options within the LCFS program. WSPA encourages CARB, in its consideration of these proposals, to think through which may provide the greatest benefit to the state, CARB's goals and the LCFS framework. The following sections provide specific comments and questions on the individual proposals presented.

Rotor Sail Proposal³

WSPA encourages CARB to consider approaches to allow credit generation for the use of this or other technology that could make inroads to decarbonizing the shipping sector. An opt-in program similar to that for renewable jet fuel should be developed to create the opportunity for shipping to take advantage of this technology on any activity that calls on California ports.

Identity Preserved Grain Proposal⁴

The Identity Preserved Grain proposal is an interesting concept. WSPA would like to better understand CARB's intent for developing this proposal further (or not) and the basis for doing so.

Advancing Credits for Direct Air Capture⁵ and Novel Technology Investment Credits (NTIC)⁶

WSPA supports concepts to provide credits for first-of-a-kind technology credit, if applied across all decarbonization pathways. These approaches have the capability to promote new technologies, which can support California's aggressive decarbonization targets.

3. Additional Comments

WSPA would like to provide comments and suggestions on number of additional elements not discussed at the October 14th and 15th LCFS workshop.

Marketable Crude Oil Name MCON Reporting (Crude Oils)

CARB should allow refiners to report California crude oils for the MCON reports under a generic "California crude" name instead of individual California crude oil name fields, as CARB does not actually use the California crude oil names reported by the refineries but uses the California crude oil production report from the California Department of Conservation. Refiners would

² CARB LCFS Workshop Day 2 Presentations. Available at: <https://ww2.arb.ca.gov/our-work/programs/low-carbon-fuel-standard/lcfs-meetings-and-workshops>. Accessed November 2020.

³ Norsepower Presentation, LCFS Concept. Available at: https://ww2.arb.ca.gov/sites/default/files/2020-10/101520presentation_norsepower.pdf. Accessed November 2020.

⁴ Farmers Business Network Presentation, Identity Preserved Low Carbon Grain. Available at: https://ww2.arb.ca.gov/sites/default/files/2020-10/101520presentation_fbn-poet.pdf. Accessed November 2020.

⁵ Oxy Low Carbon Venture Presentation, Advancing Credits for DAC. Available at: https://ww2.arb.ca.gov/sites/default/files/2020-10/101520presentation_oxy.pdf. Accessed November 2020.

continue to report individual crude oil names for imports and would report California crudes under a single category with the volume of California crude processed.

Reporting Deadlines and Processes

WSPA requests that the Q3 reporting deadline be moved from December 31 to January 7. This change would allow the preparation of the Q3 reports after the holiday season when many participants and CARB Staff are taking vacation time.

Further, WSPA requests that CARB publish the effective and end dates for CI values as part of the LCFS pathways table. Notifications should be sent when the Current Fuel Pathways table is updated.

Additionally, the MCON template available on the LCFS Reporting Tool and Credit Bank & Transfer System (LRT-CBTS) portal was last updated in 2013. WSPA requests that CARB provide an updated template.

Book and Claim for RNG

CARB should reconsider the direct supply requirements for renewable natural gas and solar electricity for crude transportation and production facilities. Book-and-claim accounting is an essential tool for matching RNG supply with demand because these projects can be located in different geographic regions. The restriction of direct supply for renewable natural gas adds unnecessary and redundant pipelines to RNG projects along with associated costs and encroachments, which will further hinder RNG use as an innovative crude production method. These same concerns apply to the current restrictions on solar electricity projects used for crude transportation and production.

Innovative Crude Categories

The LCFS has benefited from a number of innovative crude project applications. Given the success of this element of the program, WSPA encourages CARB to consider expanding the categories for which innovative crude credits can be generated. Credits for efficiency projects like those allowed for Refinery Investment Credit Projects could lead to reduced carbon intensity for crudes supplied to California. WSPA believes this would be a promising addition to the LCFS and encourages CARB to incorporate this into the 2021 rulemaking.

Refinery Investment Credit Program (RICP)

Existing RICP credits are currently limited to 15 years from the quarter in which the Executive Officer approves the project's application (Section 95489(e)(1)(G)(3)⁷). Since RICP projects will typically require years between application approval that enables the investment decision, and their completion and subsequent start-up, WSPA recommends changing the regulation to state "Crediting is limited to 15 years from the start of the crediting period."

⁷ LCFS Regulation. Available at: https://ww2.arb.ca.gov/sites/default/files/2020-07/2020_lcfs_fro_oal-approved_unofficial_06302020.pdf. Accessed November 2020.

Minimum Thresholds for LCFS Project Credit Generation

Existing minimum thresholds for LCFS credit generation project qualification serve as a barrier to entry for innovative crude production. Under Section 95489(c) of the LCFS regulation⁷, relevant to credits for producing and transporting crudes using innovative methods, subparagraph (1)(E) sets a threshold of 0.10 gCO₂e/MJ CI reduction or a reduction of 5,000 metric tons of CO₂e per year minimum. Similarly, under Section 95489(e)⁷, relevant to refinery investment credits for process improvement, subparagraph (1)(G)(2) sets a threshold of at least 10,000 credits or one percent of the facility's annual emissions. WSPA requests that CARB removes paragraph (1)(G)(2) and (1)(E) to eliminate the minimum threshold requirements.

Review of the Land Use Change (LUC) values

WSPA requests that CARB review the LUC values promulgated in Table 6, Section 95488.3 (d)⁷ for corn ethanol, soy biomass-based diesel and other biofuel crops based on research published in this area since the 2015 LCFS rulemaking.

Compliance Plan Confidentiality

As noted in a previous WSPA Comment Letter dated February 18, 2020,⁸ we remain concerned that requiring a party to submit a compliance plan tied to a sensitive commodity market crosses a confidential business information (CBI) threshold. WSPA requests that CARB confirm that Compliance Plans will be kept confidential or, at a minimum, allow for redaction of CBI.

Section 95485 (c)(2)C.3.b.⁷ states that implementation reports will be made public on the CARB website. WSPA request that CARB removes this provision from the regulatory language and keep these reports confidential.

Deficit Carryover

WSPA requests that CARB eliminate the interest penalty in the event of a deficit carryover as described in section 95485(c)(5)⁷.

Feedstock Production Yields

Current requirements under § 95491(d)(1)(C)(1)⁷ use the facility's average production yield for all feedstocks as determined during the pathway certification. The actual average quarterly yield should be used in the calculations to allocate production. Yields are variable and companies are working continuously to improve the yields. As such, WSPA requests that yields follow current operations for on-going reporting.

Overlap Quarter for Applications Deemed Complete

For the quarters where a pathway application has been deemed complete, companies have retroactively reissued PTDs for that quarter once the pathway is certified. This results in two fuel pathway codes (FPC) available for the same product. While this is a generally accepted practice, there is nothing in the LCFS regulation that clarifies which codes applicants should use

⁸ WSPA February 18, 2020 Comment Letter. Available at: https://www.arb.ca.gov/lispub/comm/bccomdisp.php?listname=lcfs2019&comment_num=23&virt_num=6. Accessed November 2020.

or if applicants can use a combination of codes depending on the timing of the FPC certification. WSPA recommends that this combination idea or overlap quarter should be documented in the regulations.

Conclusion

Thank you for consideration of our comments. We would welcome the opportunity to discuss these ideas in more detail. If you have any immediate questions, please feel free to contact me at troberts@wspa.org. We look forward to working with you on these important issues.

Sincerely,



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Western States Petroleum Association