



Western States Petroleum Association
Credible Solutions • Responsive Service • Since 1907

Catherine H. Reheis-Boyd
President

August 2, 2013

Via email (rbode@arb.ca.gov)

Mr. Richard Bode
Air Resources Board
1001 I street
Sacramento, CA 95814

Subject: WSPA Comments on ARB “Discussion Draft” on the AB32 Mandatory Reporting Regulation.

Dear Mr. Bode:

The Western States Petroleum Association (WSPA) has been an active participant in discussions relating to the implementation of AB 32 Cap and Trade and Monitoring, Recordkeeping and Reporting (MRR) since the passage of AB 32 in 2006. Over that period of time, the California Air Resources Board (ARB) and virtually all stakeholders have agreed on the need to understand and come to agreement on key details that ensure safe, reliable and accurate reporting and recordkeeping. We believe that work must continue on resolving uncertainties and questions in the near term. This is especially important as we approach the 2nd and 3rd compliance periods.

We offer specific, refinery related comments below. Finally at the end of this comment letter we offer one request to continue discussions on an Upstream (Oil and Gas) issue.

Refinery Specific Comments

MRR for Complexity Weighted Barrel (CWB)

In an effort to facilitate the implementation of the CWB index, WSPA and the ARB have been working over the past year to develop an alternative index appropriate for California refineries. We understand that as a next step in that process, ARB will hold a workshop to discuss the proposed alternative method in August. If the changes coming out of that workshop are implemented they will impact MRR proposed changes and have the potential to improve overall reporting accuracy.

1415 L Street, Suite 600, Sacramento, California 95814
(916) 498-7752 • Fax: (916) 444-5745 • Cell: (916) 835-0450
cathy@wspa.org • www.wspa.org

The CWB index will facilitate the MRR needs of refineries as they continue to reduce GHG emissions. The CWB index was designed by Solomon - as a California metric - based on volumetric data, which corresponds with the California industry convention of measuring flow rate by volume. This differs from Europe where those refineries use mass flow meters and customarily measure products in tonnes. In addition to the difference in units of measure, the CWB index has factors for equipment and process units that were developed for California refineries compared to the CWT which was developed to address EU issues such as different fuel gas, different equipment, and varying quality of fuels.

Recommendation: WSPA supports use of the CWB index and the needed MRR changes to capture CWB data needs.

ARB December 28, 2012 Guidance and implications for CWB.

WSPA strongly supports ARB's December 28, 2012 Guidance because it addressed time-critical issues that needed to be resolved. However, some issues remain unresolved and need additional discussion and clarification. We believe that the guidance is critical to provide an approach that recognizes the unique challenges that each refinery faces and allows operators the opportunity to demonstrate compliance.

This is even more important because refiners will be demonstrating their CWT/B accuracy to third party verifiers in 2014 for the first time. We believe that many of the same issues that prompted the CWT guidance also exist for CWB.

Recommendation: WSPA recommends that the December 28, 2012 ARB guidance be incorporated in the next draft. WSPA also recommends that this guidance be applied to the CWB methodology as well as to the CWT methodology.

Section 95103 (e) – Reporting Deadlines:

Staff is considering truncating the data review and submittal period. This would significantly reduce the ability for facilities and verifiers to thoroughly review the data and ensure data reporting accuracy. In addition, having a reporting deadline close to the Federal MRR reporting deadline could cause difficulties for facilities that report under both the State and Federal MRR's. This is important because differences exist between the Federal and State reports that require time to rationalize. Finally, requiring similar reporting deadlines for both reports would be very burdensome and potentially confusing.

Similarly, retaining the current reporting deadline the same while moving up the verification deadline would add burdens to the facilities trying to secure the services of the verifiers and to the verifiers that need to complete all necessary activities prior to the deadline. With the limited number of ARB-certified verifiers to do the verification work for all reporting facilities in California, reducing the verification time could add difficulties in finding verifiers able to do the work.

Recommendation: WSPA supports ARB retaining the current submittal reporting and verification deadline dates of April 10 and September 1 of each year. Retaining the current

deadlines is more consistent with facility reporting obligations under federal law and will also assist 3rd party verification efforts.

Section 95103 (m) – Changes in Methodology

ARB proposes revising Section 95103 (m) to include “product data” which would require operators or suppliers to choose the monitoring and calculation methodology for CWT (Complexity Weighted Tonne) data, in addition to other product data by January 1, 2013, and continue to use that chosen method for all future data reports. Any alternative calculation method, meeting the four criteria under (m), requires approval in advance by the Executive Officer. This proposed change will negatively impacts ongoing work between WSPA and the ARB to develop an alternative benchmark appropriate for California refineries and guidance issued to clarify reporting for the refinery benchmark in the current year CWT.

We noted above, that ARB issued CWT reporting guidance on December 28, 2012 by addressing the equipment and physical differences presented by defining intermediate process flows between refinery units as products. The refinery sector has not had even one year to work with ARB and verifiers under this guidance. WSPA is concerned that most, if not all refineries, will need to apply for an alternative calculation method simply because (m) required methodology selection by January 1, 2013 and the need to work with ARB and our verifiers under new guidance only developed days before the deadline.

Recommendation: In consideration of the uncertainty of the final benchmark and the recent guidance, WSPA recommends ARB add language allowing refinery operators or suppliers to make their monitoring and calculation methodology choice by “January 1, 2014”. The following revision will improve clarity and facilitate MRR efforts:

Section 95103 [red/underline is WSPA recommended changes]

(m) *Changes in Methodology.* Except as specified below, where this article permits choices between different methods for the monitoring and calculation of GHGs **and product data**, the operator or supplier must make this choice by January 1, 2013, and continue to use the method chosen for all future emissions data reports, unless the use of an alternative calculation method is approved in advance by the Executive Officer.

Operators of refineries that are subject to reporting under Section 95113(l); must make their monitoring and calculation methodology choice by January 1, 2014; and continue to use the method chosen for all future emission data reports, unless the use of an alternative calculation method is approved in advance by the Executive Officer.

Section 95105 (c)(7) – Recordkeeping Requirements

ARB proposes adding in the reference “AGA Report No.3 (2003) Part 2”, as a reference document to be used for orifice plate inspection requirements. WSPA believes that API’s “Fuel Gas Measurement document; API Technical Report 2571; First Edition, March 2011” should also be used as a basis for orifice plate inspections. This API technical report compliments the “AGA Report No. 3(2003)” and “ISO 5167-2 (2003)”, and it provides additional guidance for meters in refinery fuel gas service that

1415 L Street, Suite 600, Sacramento, California 95814
(916) 498-7752 • Fax: (916) 444-5745 • Cell: (916) 835-0450
cathy@wspa.org • www.wspa.org

ensure compliance with MRR metering requirements. Facilities should be able to use this additional reference especially if it provides more appropriate guidance that is consistent with “AGA Report No.3 (2003) Part 2” and “ISO 5167-2 (2003)”.

Recommendation: WSPA recommends use of API’s “Fuel Gas Measurement document; API Technical Report 2571; First Edition, March 2011” in conjunction with “AGA Report No.3 (2003) Part 2” and “ISO 5167-2 (2003)”.

Section 95104(d)(4) – Emissions Data Report Contents & Mechanism

Section 95104(d)(4) would require that if a facility’s boundary includes more than one cogeneration system, boiler or steam generator and each system produces thermal energy for different end users or on-site processes and operations; the facility will be required to report the disposition of generated thermal energy by unit/system or by group of units with the same dispositions and by the type of thermal energy product provided. As a clarification it is our understanding; that if energy goes to a single third party it can be reported as a single unit. For example if there is a cogeneration unit with 3 gas turbines; and the generated thermal energy is sold to a single third party operator (i.e.: a utility); the data from all three turbines can be combined and reported as a single data.

Recommendation: WSPA recommends ARB clarify this uncertainty through wording or guidance which could be accomplished:

ARB should clarify that for reporting of thermal energy for “on-site industrial processes” the total amount of thermal energy can be reported in total if the total thermal energy is used by the same facility. For example, if a refinery operates a cogeneration unit on-site and the thermal energy produced by the cogeneration unit is used on-site by the same refinery, then the refinery can just report the total amount of thermal energy that is used within its facility boundary.

In addition, WSPA recommends ARB provide workshops/training to reporters to ensure there is a clear understanding of both the regulatory reporting requirements including the Cal-eGGRT tool; for reporting the disposition of thermal energy.

Section 95112 Electricity Generation and Cogeneration Units

ARB’s proposed amendments state that if a facility includes more than one electricity generating unit or cogeneration system; and each unit/system or each group of units generate electricity for different particular end-users, retail providers, or electricity marketers; the operator must separately report the disposition of generated electricity by unit/system or by group of units. Similar to our comments described above for Section 95104(d)(4).

Recommendation: WSPA recommends ARB clarify that if a facility generates its own thermal energy within the facility boundaries and the thermal energy is used by the same company within its own on-site industrial processes, then the operator can report the total amount of thermal energy as a total.

Section 95113 – Petroleum Refineries, Table 1 CWT Functions & Factors

The CWT factor for “Treatment and Compression of Fuel Gas for Sales” (0.15) does not match the factor that Solomon published in their 5/14/2013 report (0.45).

Recommendation: We recommend that this factor be changed to meet the published Solomon factor.

Section 95113(l) – Additional Product and Process Data

ARB proposed adding language in Subpart l, specifically to require to conformance and reasonable assurance of material misstatement for primary refinery products through 2014. Beginning with 2015 data, verifiers will evaluate data for reasonable conformance only and not for reasonable assurance of material misstatement.

Recommendation: WSPA suggests that ARB provide guidance or language clarifying the meaning of “reasonable” in this context.

Section 95113 (D) – Density Measurement

ARB’s proposed amendments would require refinery reporters to measure the density of each throughput on an annual basis for purposes of converting barrels to mass units and the required density measurements must follow Section 95103(k) requirements. While WSPA recognizes the current regulation requires the reporting of refinery feedstock/throughput data both in CWT and CWB units for Cap and Trade (C-T) benchmarking purposes, discussions among stakeholders over the possible use of CWB may make this requirement moot.

Recommendation: Rather than developing and fine tuning language for a benchmark that is in flux, WSPA recommends that ARB remove all references to CWT issues until the discussions on the appropriate benchmark for California refineries is complete. If changes are made then ARB will have to revise the MRR proposed rule and discard this and other sections. If the rule is not changed then work done on CWT mandatory reporting language will not be wasted.

Section 95114 – Hydrogen Production

Recommendation: ARB should clarify that any new reporting requirement and data collection (if necessary) goes into effect when the new regulation is adopted and is not retroactive. Reporting of data will be in 2015 for the 2014 data collection year.

Section 95114(e)(2) - Fuel and Feedstock Requirements

It is unclear why the proposed requirement calls for all hydrogen production fuel and feedstock emissions to be broken out by fuel/feedstock type. Sampling of individual feed streams could be difficult based on issues such as very high H₂S in some streams before being combined and

scrubbed, or the absence of sample ports. Even use of engineering calculations to estimate these separate fuel and feedstock emissions could prove difficult in some situations where limited information is available.

Recommendation: Remove the requirement that fuel and feedstock emissions to be broken out by fuel/feedstock type if sampling to determine carbon content includes the different fuel and feedstocks combined.

Section 95131(b)(9) – Emissions Data Report Modifications

Failure to fix correctable errors that do not affect emissions or covered product data represents a non-conformance with this article but do not, absent other errors, result in an adverse verification statement. WSPA believes that this section may be intended to mean limiting the correctable errors to the ones identified during the verification, but that is not clear in this revised language. We are concerned that should the language be left as proposed, it would appear to enforce 100% accuracy and could be the subject of enforcement action on errors that are not included in covered emissions or product data.

Recommendation: WSPA supports revision of the following language “Failure to fix correctable errors that do not affect emissions or covered product data” to “*Failure to fix correctable errors identified during the annual verification.*”

Section 95131(b)(12) – Material Misstatement Assessment

In the discussion draft, ARB proposes to modify the “Omissions” section in Subpart 12 of Section 95131 by striking out “or covered product data” and adding additional language clarifying that this change does not apply to covered product data, except for the cement sector. We are concerned that this language change may not be understood to meet the intent described in the MRR workshop to revise Section 95131 (12) to allow for the omission of covered product data and permit the ability to obtain a qualified product verification statement.

WSPA supports ARB’s proposed concept and the language changes. We recommend ARB provide additional clarifying regulatory language or guidance that explains the “Omissions” section and specify that its use will allow for the omission of covered product data and permits the ability to obtain a qualified product verification statement. In addition, we recommend ARB should clarify that use of the “Omissions” section does not preclude the ability, under the existing rules, to use engineering methods or other methods to demonstrate that reported product data is accurate and thus to obtain a full positive verification.

Recommendation: WSPA recommends ARB revise this section by including language that allows reporters have the option to utilize the “Omissions” section in order to omit bad or missing product data from the total data reported facility wide. If this were allowed, the data will not be allowed for purposes of C&T free allocation calculations. However, if this recommendation were followed, the facility operator would not be subject to a material misstatement condition, but instead could obtain a qualified positive verification.

Upstream Oil and Gas Comment

Section 95153 (f) – Crude oil and gas well venting during well completions and well workovers:

ARB proposed adding “Crude oil” to the gas well venting reporting requirement in Section 95153(f). WSPA is currently reviewing this section to determine whether any of the calculation methods specified in (f)(1) through (f)(5) can be used to calculate GHG emissions from crude oil well completion and workover activities.

Recommendation: WSPA would like to meet with ARB to discuss the calculation methods and any modifications that may be necessary in order to meet this proposed requirement.

Thank you for considering these changes. Should you have any questions, feel free to contact me or Mike Wang of our staff (cell: 626-590-4905; Email: mike@wspa.org).

Regards,

A handwritten signature in blue ink, appearing to read "Cathy Boyd".

Cc: Mr. Steve Cliff, ARB (scliff@arb.ca.gov)
Mike Wang, WSPA