



District 12

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District Director

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Mary Nichols
Chairwoman, California Air Resources Board

The United Steelworkers (USW) fully support fair and equitable “like to like” facility refinery benchmarking, protecting and promoting local jobs and job growth, protecting tax bases, supporting local economies and communities, as well as implementing continuous process improvements within the refining sector. Our main focus and primary concern is for our many members whose jobs hang in the balance while the current undelineated and unfounded changes are in process. The final 15-day package is of grave concern to us. As currently drafted we continue to be subject to significant job leakage (losses), which will devastate our workers, their families and the communities they live in.

We are in agreement with the establishment of refinery benchmarking, however, refineries in and of themselves are not product based benchmarks. ***The benchmark must reflect what is manufactured by the refinery.*** The allowances also must be a benefit that is equal to all parties, with allowances fairly distributed in a manner that allows a refinery to either invest in low carbon technologies or pay instead. A program where certain refineries have to buy 40% of their allowances, with such a large gap between investment and the reality therein, is fundamentally flawed and is clearly a short term tax leading to facility shut downs. There is nothing in the legislative language of AB32 that allows for CARB to choose for some facilities to pay nothing while others are burdened to shoulder the bulk within the refinery sector until they close. This type of program cannot be replicated in other states and defies the entire intent of promoting and growing a sustainable green economy and future clean, green fuel projects. As strong supporters of AB32 and its tenets, this current path will force us to abandon some of the projects we hoped to implement as part of our overall greening of the industry plan.

The USW is still seeking the solid policy justification for the recent modifications that, to the best of our knowledge, utilizes unverified, inconsistent data. We continue to question CARB’s divergence from “one product- one benchmark”, followed by the elimination of intermediates and other products as being a bona fide product in their own right. Any stream bought, sold or traded is clearly a product, which means that refineries are being treated differently from other sectors to their detriment or windfall by design. We will strongly oppose this approach here as well as in other states where it may be introduced.

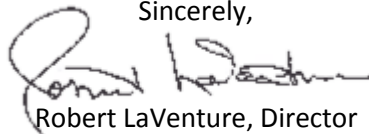
We again ask and reiterate the question we have raised since our initial call, which is: are any in-state refineries or individual facilities unfairly disadvantaged over any other facilities? As we see it, in-state refineries are still being penalized while out of state/country importing refineries benefit. The USW represents 95% of all oil refinery workers and our workers will be disproportionately affected by this arbitrary and inconsistent benchmarking approach where the one product excludes the many commodities. We do not want our members and their families to suffer because staff does not fully understand the refining sector and its inherent competitive nature. We need to offer our members assurances that their voices are being heard and that their jobs will be safe – good paying, highly skilled California jobs that have been protected for over 50+ years.

The USW has consistently defended AB32 programs actively and ardently, and it would be a sad testament to find that the reward for our dedication and efforts are unnecessary job losses related to an action based upon insufficient data and hasty throughput. The USW does not see the regulatory rush to complete this element in the regulation which continues to be murky. We strongly recommend that the refinery benchmarking be held for additional public comment and the rest of the regulation be completed. Our concerns are valid because the very same data that led to an atypical and typical definition in the formal board hearing led to its removal in the final 15-day package. Too much is at stake for our communities, families and workers for CARB to rush into this analysis and regulation, much of which has yet to be adequately substantiated.

The USW also formally requests a numerical graph by refinery data point on the individual allowance obligation for each refinery blinded in the same way that the current data is presented around the benchmark. There clearly was a reason the experts at the CARB workshops expressed the need for an atypical benchmark, and the CARB justification to date is still inconsistent with experts and with other existing refinery benchmarking programs.

The USW therefore strongly urges CARB to hold an informational update during April in order for stakeholders and the public to receive additional CARB board member clarification and guidance. There should not be a vote taken in April while this process is still unsettled and incomplete. CARB staff can revisit this issue in a subsequent 15-day package, which will allow for all data and input to be fully included and properly vetted. On behalf of our members whose livelihoods are at stake, we must ask for this consideration.

Sincerely,



Robert LaVenture, Director
United Steelworkers (USW) District 12

Cc: CARB Board Members