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Vice President, Climate Policy

December 21, 2022

Dr. Cheryl Laskowski  
Branch Chief – Low Carbon Fuel Standard  
California Air Resources Board  
1001 I Street  
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*Sent via upload to:*

[https://www.arb.ca.gov/lispub/comm2/bcsubform.php?listname=lcfs-wkshp-nov22-ws&comm\\_period=1](https://www.arb.ca.gov/lispub/comm2/bcsubform.php?listname=lcfs-wkshp-nov22-ws&comm_period=1)

Re: WSPA Comments on November 9 CARB Workshop regarding Potential Changes to LCFS

Dear Dr. Laskowski,

The Western States Petroleum Association (WSPA) appreciates the opportunity to comment on the staff presentation at the California Air Resources Board (CARB) workshop to discuss potential changes to the Low Carbon Fuel Standard (LCFS), held on November 9, 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 feedback regarding the CARB staff presentation<sup>1</sup> on proposed changes in the LCFS Program as provided to stakeholders on November 9. WSPA has previously submitted comments to CARB staff pursuant to the CARB's July 7 and August 18 LCFS workshops. Those comments are incorporated into this letter by reference.<sup>2,3</sup>

### **CATS Model Overview (Slides 12-21)**

The California Transportation Supply (CATS) Model is intended to develop optimized scenarios based on the user input. CARB needs to assess that the basis for its inputs to CATS are technically sound, in particular for emerging technologies. WSPA recommends that CARB develop sensitivity analysis for different input variables, including (but not an exhaustive list):

- Various gasoline demand scenarios, including flat gasoline demand or gasoline demand not dropping as fast as expected in the original scenario.
- Different electricity prices, as the cost of electricity seems to be too low if set at 80 \$/MWh as stated in Slide 16. The United States Energy Information Administration (EIA) recently reported that in September 2022, the "average price of electricity to ultimate customers" for the transportation sector in California was 15.63 cents/KWh (equates to 156.30 \$/MWh).<sup>4</sup> In addition, modeled scenarios for future years should take into account upward pressures on electricity rates such as those presented by the California Energy Commission in their

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<sup>1</sup> <https://ww2.arb.ca.gov/sites/default/files/2022-11/LCFSPresentations.pdf>

<sup>2</sup> Western States Petroleum Association. "WSPA Comments on CARB Workshop to Discuss Potential Changes to the LCFS", August 8, 2022.

<sup>3</sup> Western States Petroleum Association. "WSPA Comments on the August 18<sup>th</sup> CARB Workshop to Discuss Potential Changes to the LCFS", September 19, 2022.

<sup>4</sup> [https://www.eia.gov/electricity/monthly/epm\\_table\\_grapher.php?t=epmt\\_5\\_6\\_a](https://www.eia.gov/electricity/monthly/epm_table_grapher.php?t=epmt_5_6_a).

September 21, 2021, Demand Analysis Working Group which shows forecasted statewide commercial and residential rates greater than 20 cents/KWh in 2030 and beyond.<sup>5</sup>

- A range of crude oil price ranges, rather than a single 90 \$/barrel proposed on Slide 16 and Table 4 of the CATS documentation.

CATS should also model the additional cost of electricity for building up the electric vehicle (EV) charging infrastructure and the construction of additional power generation.

Table 8 of the “Draft California Transportation Supply Model – Technical Documentation” (hyperlink to document provided on Slide 21) shows a significant difference between the fixed cost of CARBOB production and the fixed cost of ultra-low sulfur diesel (ULSD) production. WSPA requests that CARB provide more information on how these fixed costs are established as ULSD and CARBOB are co-produced at oil refineries. CARB should also confirm whether the biodiesel equivalence value under the United States Environmental Protection Agency’s Renewable Fuel Standard (RFS) program should be 1.5 rather than 1.4 as stated on Page 20 of the “Draft California Transportation Supply Model – Technical Documentation.”

### **CATS Summary Input Spreadsheet – Fuel Production Tab – Exogenous Subsidy (Slide 21)**

In reviewing the “core model inputs” (hyperlink to spreadsheet provided on Slide 21), WSPA requests that CARB staff confirm if the 0.369 \$/MJ value of compressed natural gas (CNG) is correct, or if it should instead be 0.0369 \$/MJ. The 0.369 \$/MJ corresponds to nearly \$390 million per BTU – which seems very high. It is also requested that CARB provide the basis for the renewable gasoline 0.019 \$/MJ exogenous subsidy.

### **Scenario Design: Carbon Intensity (Slides 25-26)**

WSPA is concerned about the current pace of the LCFS rulemaking. CARB proposes to significantly accelerate near-term LCFS targets and potentially extend targets as far out as 2045. However, CARB staff is just beginning to assess potential compliance scenarios. The presentation during the November 9 workshop described high-level compliance curves, with little transparency into the methodology and no discussion of feasibility. To meet a January 2024 implementation date, these scenarios need to be presented in a more comprehensive manner, with transparency and significant stakeholder input. Without that, it is difficult to comment on the three compliance curves presented. Consequently, we can only comment on the modeling inputs described by CARB staff.

For example, Slide 6 shows that the program only slightly “overperformed” – by 0.61% carbon intensity (CI) reduction in 2021 (9.36% CI reduction vs. 8.75% CI target) – which is only about half of the current annual increase in the CI benchmark. If the pace of adopting Zero Emission Vehicles does not occur as planned into 2030, the number of deficits will far exceed any credits being generated. Yet this scenario is not being evaluated as part of the scenarios. As a result, CARB should be careful in setting more stringent CI standards and ensure that the new CI standards do not quickly exhaust the credit bank.

In addition, CARB should include in the proposed regulatory language a provision that stipulates a formal annual program review with an option to reset the benchmarks in the event that credit generation falls short or/and deficit generation is higher than expected.

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<sup>5</sup> CEC Demand Analysis Working Group ([https://www.energy.ca.gov/sites/default/files/2021-09/1%20Electricity%20Rate%20Forecast%20Updates\\_ADA.pdf](https://www.energy.ca.gov/sites/default/files/2021-09/1%20Electricity%20Rate%20Forecast%20Updates_ADA.pdf)) – Accessed 12-15-2022

## **Crop-Based Biofuel (Slides 28-29)**

As WSPA stated in our August 8 comment letter, no arbitrary limit should be set on crop-based feedstock. Any concerns around land use impacts are handled in feedstock carbon intensity calculations. Indirect Land Use Change (ILUC) values already increase the CI score of renewable fuel produced from crop-based feedstocks, resulting in lower emission reductions attributable to the fuels. An artificial limit on supply is not the appropriate method of accounting for these impacts.

Food supply concerns are similarly addressed by ILUC inputs to carbon intensity scores. It is noteworthy that the 2018 LCFS readoption evaluated several different fuel supply scenarios<sup>6</sup> with varying amounts of biodiesel and renewable diesel available to support the LCFS's goal of reducing the CI of fuels in California 20% by 2030. The scenario chosen to illustrate a feasible program estimated the growth of biodiesel and renewable diesel would be on the order of 146% (and evaluated growth up to a 215% increase) from 2018 levels through to 2030. Much of the anticipated growth in these fuels has already been considered by CARB, including potential land use impacts and other factors<sup>7</sup>. Today, feedstock availability is aligning with expectations from the 2018 LCFS readoption. As shown in the 2018 illustrative compliance calculator,<sup>8</sup> CARB forecasted the CIs for biodiesel and renewable diesel to be 34 gCO<sub>2</sub>e/MJ for biodiesel and 30 gCO<sub>2</sub>e/MJ for renewable diesel into 2030. As of Q2 2022, CARB has reported<sup>9</sup> average CI values of 27.51 gCO<sub>2</sub>e/MJ for biodiesel and 35.96 gCO<sub>2</sub>e/MJ for renewable diesel. Given investments taking place, additional restrictions should not be created as anticipated growth of these fuels and impact to land use has already been considered.

Additionally, no data has been presented by CARB or other stakeholders suggesting that any threat to food supply has been created by growing biofuel demand. It is noteworthy that while CARB is proposing limits on crop-based feedstock, the proposed regulation encourages the increased development of renewable electricity sources (specifically solar) which will undoubtedly result in the conversion of agricultural lands. WSPA believes that this duplicity in policy is concerning and sends a mixed message to stakeholders.

Rather than establish artificial limits on crediting for specific fuels, WSPA encourages CARB to continue analyzing land use change factors and focus on CI score accuracy. WSPA also requests that CARB define the term "virgin crop-based oil." Specifically, the definition should not include cover crops. Cover crops are used to slow erosion, improve soil fertility and quality, and help control pests and diseases.

## **Biomethane Crediting (Slides 30-32)**

CARB staff presented potential scenarios for limiting crediting for biomethane, including arbitrary geographical limits and a phase-down of avoided methane crediting without providing a clear approach as to how CARB would implement these changes. For example, it is not clear whether or not the gas to a hydrogen production facility (a legacy pathway not tied to a landfill renewable natural gas (RNG) facility book-and-claim) would be removed from crediting as of 2030. Clarity around considerations such as this is important for stakeholders to understand and to provide meaningful feedback. Because biomethane crediting has been a major contributor to the success of the LCFS program, to arbitrarily limit those credits threatens the continued success of the program. It is also contrary to the technology neutral, market-based nature of the LCFS program.

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<sup>6</sup> CARB 2018 rulemaking. [Illustrative Compliance Calculator](#).

<sup>7</sup> CARB 2018 [Environmental Analysis](#).

<sup>8</sup> *Supra*, tab "Calculations" Row's 57 and 58.

<sup>9</sup> CARB LCFS [Quarterly Data Spreadsheet](#).

CARB cited a desire to focus biomethane use in hydrogen production and non-transportation use. The proper way to do so is to establish incentives that encourage use in those applications, rather than simply removing incentives elsewhere. As producers discussed during the November 9 workshop, such an approach is more likely to slow or even reverse investments in methane capture. Rather than limit crediting for biomethane under the LCFS, CARB should be looking for ways to establish credit, such as removing the limit on book-and-claim treatment for biomethane used for process energy in refineries and crude production facilities.

Further, WSPA believes that CARB should not attempt to harmonize RNG with electricity (see Slide 32) as the natural gas pipeline is vastly different from the electricity grid. For example, there is more flexibility to move gas longer distances than the electric grid is capable of. If Alternative A or B is adopted, then CARB should grandfather in all current pathways that have RNG facilities located outside of the “Western NG network” as project investment was based upon dispensing in California.

### **Other Modeling Assumptions Under Consideration (Slide 35)**

CARB included a phase out of petroleum project-related crediting in two of the scenarios presented without describing the rationale behind such a change. Given that all scenarios involve continued use of petroleum products in the coming decades, it is contrary to the goals of the LCFS program to discourage carbon reduction projects at crude production and refining facilities.

Rather than arbitrarily constrain these credits without science-based drivers, CARB should be removing current barriers to qualification. Innovative Crude credits are currently restricted to a discrete set of technologies and should be expanded to enable emerging technologies and efficiency investments that reduce carbon emissions. Similarly, the use of biomethane in both crude production and refining facilities should be allowed book-and-claim treatment.

WSPA continues to object to the addition of deficits for intrastate fossil jet use. This is a needlessly complicated addition to the program for a very small portion of jet fuel demand in the State. It would have little impact on alternative jet fuel demand and create considerable work for aviation stakeholders, CARB staff, and verifiers (i.e., fuel producers and importers do not know who controls how much of the jet fuel that is consumed in intrastate flights – nor do they have access to this information). However, if CARB decides to implement such a LCFS obligation on intrastate jet fuel, the obligation should not be borne by fuel producers or importers.

WSPA appreciates the opportunity to provide comments on this important regulatory process. If you have any questions regarding this submittal, please contact me at via email at [tderivi@wspa.org](mailto:tderivi@wspa.org).

Sincerely,



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