



Western States Petroleum Association  
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**Catherine H. Reheis-Boyd**  
President

December 15, 2010

Via Email

Ms. Mary Nichols, Chair  
Air Resource Board  
1001 I Street  
Sacramento, CA 95814

**SUBJECT: Western States Petroleum Association comments on the proposed revisions to the Air Resources Board, Mandatory Reporting Regulation released October 28, 2010 [Agenda 10-11-2 Public Hearing to Consider Amendments to the Regulation for Mandatory Reporting of Greenhouse Gas Emissions]**

Dear Chairwoman Nichols:

The Western States Petroleum Association (WSPA) submits the following comments on the proposed revisions to the mandatory reporting regulation (referred to as "the MRR regulation") released on October 28, 2010. The regulation will be considered for adoption at the December 16, 2010 Air Resources Board (ARB) hearing.

WSPA is a non-profit trade association representing twenty-eight companies that explore for, produce, refine, transport and market petroleum, petroleum products, natural gas and other energy supplies in California and five other western states. Our member companies operate facilities throughout the state that will be subject to the reporting requirements in the proposed rule revisions. Since WSPA member facilities are responsible for a significant portion of the program emissions, they have a serious and legitimate interest in the outcome.

WSPA has been an active and productive participant in policy development and program issues that have evolved as a result of the passage of AB 32. For example, we have worked with you and your staff throughout this year and last year on the Low Carbon Fuel Standard (LCFS), culminating in a well-defined resolution at the November Air Resources Board Hearing.

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We believe that unresolved issues still exist and that further study is needed by ARB staff and the public before final ARB action is taken. This should not be surprising given the fact that the MRR Rule encompasses 164 pages of very detailed requirements and relates directly to provisions included in a staff report that is nearly 300 pages long.

Recognizing the magnitude of this regulation, as well as current uncertainties in how the MRR regulations are to be implemented, it appears unlikely that all issues will be resolved by the Board and staff by the end of the Board Meeting. Hence, we look to the staff and Board to convene a series of collaborative efforts throughout 2011 that will be dedicated to gaining a better understanding of how these issues will affect the implementation of the MRR provisions.

We have identified the following issues for your review.

- **Section 95107 – Enforcement**
- **Section 95104 and 95106 – Confidential Business Information (CBI)**
- **Section 95103 – Definition of Oil and Gas Facility and De-Minimis Provision**
- **Sections 95112, 95113, 95114, 95115 and 95129 – Missing Data Provisions**
- **Section 95121 – Suppliers of Transportation Fuels**
- **Section 95113 – Petroleum Refineries, Coking Units/Coke Vent Drums**
- **Section 95103(e) & (f) – Reporting Deadlines**
- **Section 95131(i) – Verifying Biomass-derived fuels**

WSPA would like ARB to address these unresolved issues beyond the December 16<sup>th</sup> Board hearing (during the expected rulemaking in 2011 and the resulting 15-day comment period). In addition to the following comments, the attached Appendix A summarizes in more detail specific issues and concerns about several sections of the regulation.

#### **1. Section 95107 – Enforcement**

WSPA understands and agrees that ARB must issue appropriate enforcement provisions to ensure that operators comply with the reporting requirements and to address situations of non-compliance or other issues such as the under reporting of emissions. However, WSPA believes the proposed enforcement provisions in the regulation are not only unnecessarily duplicative but, as currently structured, could unfairly impose penalties ranging into the hundreds of millions of dollars for administrative errors.

As written in sub-sections (a), (b), (c) and (d) the failure to measure, collect, record and preserve data, regardless of the reason or circumstance, could be subject to penalties under the different sections, which potentially could lead to penalties being multiplied 3 to 4 times over for the same error. This is particularly concerning because ARB changed the enforcement provisions from an “intent to deceive” to a “strict liability” standard.

Given that the required reports contain literally tens of millions of data points and information, there is reason to expect errors that are wholly unintentional. However, the enforcement provisions as written could result in a massive number of penalties.

**Recommendation:** At a minimum, ARB should revise sub-sections (a), (b), (c) and (d) as follows:  
i. Eliminate the word “each” in Section (d), and then combine Sections (a) and (d).

- ii. Clarify what is defined as inaccurate in Section (a) (see our recommendation for a “notice to comply” penalty scheme below).
- iii. If Sections (a) and (d) are combined as suggested above, then Section (b) is no longer necessary as the combined (a) and (d) address the number of days as a separate violation.
- iv. Section (c) should be eliminated because it does not reflect ARB’s intent. As it is currently written, a facility could be subject to penalties despite having received a positive verification.
- v. Eliminate Section (e) because Section (f) provides sufficient cover to the executive order concerns.

WSPA also recommends the ARB: i) revise the enforcement provisions in Section 95107 so that it will consider the operator’s demonstrated efforts to comply with the reporting requirements; ii) develop an enforcement guidance policy document that will ensure enforcement actions are implemented fairly yet preserve the ARB’s ability to enforce failures to comply; and, iii) incorporate a dispute resolution process and a Notice to Comply program.

Specific recommendations are listed below.

Recommendation: ARB should also revise Section 95107; so that the enforcement provisions take into account an operator’s demonstrated efforts to comply with the reporting requirements. Improved clarity in enforcement would allow ARB to make a distinction between legitimate efforts to comply and those that may fall short.

For example, submittal of reports on-time and demonstrated compliance with the required 5% accuracy requirement should be considered as evidence of intent NOT to deceive. Conversely, operators who are recalcitrant by failing to meet the reporting requirements or by failing to submit the required data and information on time might be appropriately penalized.

Recommendation: Develop a guidance document to clarify the enforcement and compliance process.

Clarifying the issues in the manner described above will buttress earnest efforts by operators as they comply with the reporting and verification requirements. Such clarity will also ensure that facilities are treated fairly, and also facilitate ARB’s options for enforcement against operators that fail to comply with the regulations.

WSPA recommends that ARB undertake development of a notice to comply/minor violation penalty guidance along the lines developed by the air districts. A prime example is the BAAQMD’s “notice to comply” guidelines – found at:

[http://www.baaqmd.gov/~media/Files/Compliance%20and%20Enforcement/notice\\_to\\_comply\\_revise\\_d\\_6\\_19\\_07.ashx](http://www.baaqmd.gov/~media/Files/Compliance%20and%20Enforcement/notice_to_comply_revise_d_6_19_07.ashx)

Such guidance would allow ARB to define and address the typical recordkeeping errors that do not adversely impact the environment or result in excess emissions, nor violations in air quality standards. Guidance would, at the same time, give regulated entities the ability to correct inadvertent errors so as not to result in enforcement action.

Recommendation: Develop a “dispute resolution” process similar to the process available to the local air districts.

WSPA reiterates our previous recommendation to develop a dispute resolution process that would provide ARB and facilities faced with compliance obligations with the ability to resolve potential enforcement issues in a fair manner.

## 2. **Section 95104 and 95106 – Confidential Business Information (CBI)**

The proposed revisions are intended to allow California to use the new federal reporting tools to manage and align submission of reporting data. WSPA has been confident in ARB’s ability to handle properly and protect confidential business information submitted under the existing reporting rule. However, we are concerned with future report and data information handling procedures as operators begin to submit annual reporting information through the Federal EPA data submission tool.

Recommendation: To ensure that CBI information submitted to USEPA will be protected by ARB, WSPA recommends the following change in the last sentence in 95106(a):

**Section 95106(a)** Emissions data submitted to the ARB under this article is public information and shall not be designated as confidential. “Data reported to U.S. EPA under 40 CFR Part 98 which **has been released as public information** ~~is determine (d) to be non-confidential~~ by U.S. EPA shall be considered public information by ARB.”

## 3. **Section 95103 – Definition of Oil and Gas Facility and De-Minimis Provision**

WSPA supports ARB’s efforts to align their reporting requirements with the Federal MRR regulations, including Subpart W requirements for Oil & Gas Production operations. However, WSPA is concerned about the impact on the de-minimis provisions given the change in the definition of an oil and gas facility from the current “field” definition to one that encompasses a “basin-wide” definition. In many cases, there are multiple field operations located within a basin, and therefore, the facility definition would potentially reduce (by a factor of perhaps 5 to 10, or maybe more) ARB’s current de-minimis reporting allowance.

Recommendation: In order to maintain the current de-minimis provisions in the California reporting program, ARB should clarify the de-minimis provision by revising Section 95151(a)(2), by adding the following:

**95151(a)(2)** For purposes of compliance with the de-minimis provision in Section 95103(i), the operators of on shore oil and gas facilities shall use the facility definition in 95102(120).

## 4. **Sections 95112, 95113, 95114, 95115 and 95129 – Missing Data Provisions**

Sections 95112-115 and 95129, describe the missing data substitution requirements for Stationary Combustion sources, Continuous Emission Monitoring (CEMS) equipment, process emissions, etc.

WSPA shares the same goals as ARB in terms of ensuring missing data is substituted with accurate data and that operators do not under report emissions. However, as currently written, Section 95129 does not clearly identify the full range of options available for operators to use to fill in missing data.

Recommendation: ARB should clarify Section 95129 to ensure operators are fully aware of the flexibility and alternative options for missing data, and the procedures described in this section should be considered as the last option in the event alternative methods cannot be employed. For example, alternative options to obtain missing data include utilizing existing flow meters located either upstream or downstream of a flow meter failure.

In addition, ARB should align its missing data provisions to be as consistent as possible with those used by EPA. WSPA looks forward to working closely with staff to improve and provide more clarity and flexibility and have detailed edits in Appendix A that should be incorporated in the final regulation.

## **5. Section 95121 – Suppliers of Transportation Fuels**

This section details reporting requirements for suppliers of transportation fuels. Because there is tremendous similarity and overlap with the data and the data needs required by the LCFS and federal RFS (Renewable Fuel Standard), it is important that ARB provide the required consistency and guidance to ensure supplier compliance with all three programs.

## **6. Section 95113 – Petroleum Refineries, Coking Units/Coke Vent Drums**

WSPA believes the source testing requirement for coking units and coke drum vents should not be required and instead recommend using the EPA default emission factor for CH<sub>4</sub> for the following reasons:

- **Safety:** There are safety concerns associated with conducting top of the coke drum sampling due to potential exposure to high temperatures (>900F) and steam, creating a safety risk for source testing personnel.
- **Technical Source Testing Issues:** Previous source testing conducted by the SCAQMD revealed that varying conditions during the coke drum venting process make it difficult to obtain accurate and reproducible flow measurements. This is because the stack flow rates vary, starting off high and tapering off as pressure in the drum is relieved.

Also, the duration of the venting cycle varies, ranging from a couple of minutes to as long as 20 minutes which creates a very narrow window to complete the source testing. Finally, given the exhaust gas is primarily steam, it is very difficult to make accurate methane measurements at close to 100% moisture.

- **Estimated CO<sub>2</sub> Emissions:** Based on testing data conducted by the SCAQMD, total annual CO<sub>2</sub> equivalent emissions from a typical refinery's coke drum vents were estimated to be only 399 MT. This is an amount that we believe is not significant enough to warrant mandatory source testing requirements, especially given the above mentioned safety concerns.

Furthermore, it should be noted that during the same SCAQMD coke drum source test, the mole fraction of CH<sub>4</sub> in the coking vessel gas was determined to be 0.0067 (mole CH<sub>4</sub>/mole vent gas), which is comparable to EPA's default factor of 0.01.

Recommendation: ARB should remove the source testing requirement for coke drum vents and, instead, rely on EPA's default CH<sub>4</sub> emission factor as a reasonable estimate for these insignificant emission sources.

**7. Section 95103(e) & (f) – Reporting Deadlines**

WSPA understands ARB's stated reasons to advance both the reporting and verification deadlines to align with Federal reporting time requirements, and also to conduct the annual true-up required in the proposed Cap and Trade program. However, WSPA is concerned that further compressing the report and verification time deadlines will only increase the potential for reporting data errors.

The additional new ARB requirements that go beyond the Federal requirements, such as calculating missing data requirements and calculation requirements for all flaring events, as well as other provisions, will require significant additional time to develop and incorporate into the California Reports.

Recommendation: ARB should set the report submittal and verification timeline deadlines at May 1 and November 1 respectively, or consider developing a staggered submittal deadline schedule to allow as much time as possible for operators to submit their reports and for the required verification procedures to be conducted in a timely manner.

**8. Section 95131(i) – Verifying Biomass-derived fuels**

This section establishes unclear and infeasible requirements for the verification of biomass-derived fuels, particularly if it applies to biomass derived transportation fuels. At this time it is premature to establish requirements for the treatment of biomass-derived transportation fuels in the cap and trade program when overall policies to address transportation fuels are yet to be determined. Given the importance of transportation fuels in the market, it is prudent to evaluate and resolve this issue after additional study and in the context of the overall approach to transportation fuels.

Recommendation: ARB should defer consideration of the treatment of biomass-derived transportation fuels until additional study of the impacts and alternatives are completed and it can decide on the appropriate approach to addressing transportation fuels outside of the LCFS.

As mentioned above, the attached Appendix A includes more detailed comments and recommendations.

Thank you for considering our comments. We look forward to continuing our working relationship with ARB in 2011 on these important matters.

If you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink that reads "Cathie A. Boyd". The signature is written in a cursive style with a large initial "C" and a stylized "A".

cc: James Goldstene  
Kevin Kennedy  
Ellen Peter  
Will Brieger  
Edie Chang  
Jason Gray  
Doug Thompson  
Richard Bode

**Appendix A**  
Detailed Comments on the October 28, 2010  
Proposed Revisions to the California Mandatory Reporting Regulation

**95100.5(c) – Purpose and Scope**

This section specifically references the EPA regulations that had been issued at the time of this draft. However, any future changes in EPA MRR regulations that are not exactly consistent with those of the State will lead to inconsistencies between the California and Federal reporting programs. Therefore, ARB should work closely with the regulated industry to ensure California’s MRR program aligns with all elements of the final EPA reporting regulation and going forward in future EPA rule revisions.

**95101(h)(1) – Applicability**

WSPA recognizes there may be valid reasons to require an entity to continue to report emissions, even if the emissions fall below the 25,000 Metric Tons (MT) CO<sub>2</sub>e compliance obligation level. However, we believe requiring continued reporting for 5 years for a facility that falls below 10,000 MT CO<sub>2</sub>e is unreasonable and would be an unnecessary burden to the operator. Therefore, we request ARB modify this section and minimize the requirement to report for facilities with emissions that fall below 10,000 MT CO<sub>2</sub>e.

**Section 95102 (155) – Definition of GHG Pollutants**

The definition for GHG pollutants in Section 95102, item 155 specifically includes reference to “hydrocarbons.” WSPA believes it was not ARB’s intent to include hydrocarbons and recommends it be deleted.

**Section 95103(h) - Reporting in 2012 and 95113(c) – Refinery Fuel Gas Sampling**

Section 95103(h) states that emission data reports are due in 2012 (for the 2011 data collection year). However, required monitoring equipment and procedures will not be in place during 2011. As a result, operators must report using the applicable monitoring and calculation methods in EPA 40 CFR, Part 98.

While WSPA appreciates ARB’s recognition that 2011 will be a Phase-in year to allow operators to transition to the new reporting regulation, we recommend ARB provide clarification on the following:

- Consistent with the staff report section entitled “Phase-in Year” (p.11 of the Staff Report), WSPA recommends ARB clarify that the proposed Reporting regulation and requirements apply to the 2012 emission data gathering year (report due in 2013).
- For the 2011 emission data gathering year, facilities and suppliers should use EPA 40 CFR, Part 98 reporting requirements, which will also satisfy ARB 2011 reporting requirements.
- The phase-in process will allow facilities and suppliers the time to address any changes in monitoring requirements and will not immediately go into effect in 2011.

- For owners of monitoring equipment that have applied for EPA Best Available Monitoring Method (BAMM) extension per 40 CFR 98.3(j), ARB will allow the use of BAMM as stated in the EPA BAMM extension request.
- ARB should clarify that all applicable requirements, including enforcement provisions under the current ARB MRR program, apply to facilities and suppliers for their 2011 Reports (for their 2010 emission data year). This interpretation avoids any confusion that the proposed regulation requirements do not retroactively apply to the 2010 emission report year.

### **Section 95103(k)**

WSPA recommends ARB clarify in Section 95103(k) that the calibration and meter requirements specified in EPA 40 CFR 98.3(i), apply to only those measurement devices that are subject to this section as cited by applicable subparts of the EPA GHG MRR regulation.

Section 95103(k) requires an operator or supplier to submit to the Executive Officer (EO) a request to postpone conducting meter inspections and accuracy assessment in the event such testing cannot be done due to infrequent outages or shutdowns.

This requirement is above what is required in 40 CFR 98.3(i) and we believe it provides little if any added benefit, and therefore recommend ARB remove this requirement.

### **Section 95103(l) – Weekly Fuel Monitoring**

WSPA recommends ARB clarify in this section that the compliance obligation for this provision can be met if the fuel measurement equipment is part of, or is being monitored by, a computer data collection/management system, or the meters are physically monitored at least weekly via some other operations or data management system.

### **Section 95104 – Emissions Data Report Contents and Mechanism**

WSPA requests that ARB provide guidance on how to obtain ARB identification numbers for situations where operators sell power and thermal energy to customers. This information is not normally available.

### **Section 95105(a) – Recordkeeping Requirements**

This section requires reporting entities that have a compliance obligation under the Cap and Trade regulation in any year of the current three-year compliance period, to maintain all records for a period of ten years from the date of emission data report certification. Although WSPA recognizes the importance of maintaining previous year's data, we believe maintaining such data for ten years is unnecessarily excessive, and a shorter timeframe of six years is sufficient to meet ARB's needs for purposes of the Cap and Trade regulation.

Further, WSPA recommends that ARB specify flexible timelines for operator response to agency data requests. In other words, the size and complexity of the data request should influence the length of time given to an operator for response.

For example, as currently written, an operator is required to submit information within twenty days of receipt of a request by ARB, without any consideration as to the size and type of information that is being sought. Meeting such a request within twenty days can be very difficult if the request includes submittal of each monitoring data point, which could mean tens of millions of data points. However, if ARB requests emission summary data only, such a request could be handled within a reasonable timeframe.

### **Section 95113(g) – Uncontrolled Blow Down Systems**

WSPA recommends if there are no uncontrolled system blow downs to report during the reporting year, operators can simply note “none” in their reports.

### **Section 95113 (m) – Refinery Benchmark**

WSPA recommends ARB clarify that Section 95113 (m) is a “placeholder” that will be replaced by requirements being developed under the Cap and Trade provisions. These provisions will be revised to be consistent with, and inform as necessary, data needed to support the Cap and Trade program.

### **Sections 95113, 95114, 95115 and 95129 – Missing Data Substitution Requirements**

Listed below are specific comments and concerns, including recommended changes in the above referenced Sections:

#### **Sections 95113(l)(2)(A,B & C), 95129(c)(2) & 95129(d)(2)(A) – Missing Data Substitution Procedures**

As we have stated previously, WSPA appreciates ARB’s efforts to align as closely possible the California reporting requirements with Federal EPA requirements. In that regard, we look forward to working with staff to ensure data substitution procedures are as consistent as possible.

#### **Fuel Consumption – 95129, Section (d)(1) and (d)(2)**

Section 95129(d), specifically states that if a portion of the fuel consumption data at a facility level does not meet the accuracy requirements, the operator must use either Sections 95129(d)(1) “Load Ranges” or 95129(d)(2) “Without Load Ranges,” to calculate missing fuel flow data.

WSPA recommends ARB clarify in Section 95129(d), that an operator has the option of calculating facility level fuel flow rate missing data by using either 95129 (d)(1), or 95129 (d)(2), *or* some other alternative measurement option such as utilizing flow meters located either upstream or downstream of the failed flow meter or other acceptable method.

WSPA also recommends ARB clarify how “thermal output” is defined. Specifically, would this be defined if the source’s primary function is steam production or for sources that generate heat used in a manufacturing process, or is this term more relevant to electrical generating facilities only?

Although the term “maximum potential fuel flow rate” is defined in the definitions section, WSPA recommends ARB provide more clarification as to what the term means. It is not clear whether the

fuel flow rate corresponds with the maximum heat input capacity of the unit or the maximum fuel flow rate at which the unit would routinely operate.

### **Section 95129(d)(2)(A) and (B) – Fuel Consumption Data Without Load Ranges**

Sections 95129(d)(2)(A) and (B) describe the procedures required for calculating fuel consumption data in the absence of load range data for either single or multiple fuels. The requirements for calculating missing data are based on the levels of data capture of 100% to 95%, 95% to 90% and 80% to 90% and below 80% (if below 80%, non-conformity occurs and an operator must use highest fuel data).

WSPA is concerned that the missing data calculation procedure is limited to only “process data” that are routinely measured and recorded at the unit. This interpretation would limit other alternative methods that might be available, such as fuel flow meters located upstream of the unit. Use of these alternative methods could be used to calculate missing fuel consumption data, in lieu of having to utilize the more complex process data procedures.

WSPA recommends ARB include: “flow rate data” in Section 95129(d)(2)(A), as follows:

Section 95129(d)(2)(A):

- “1. If the fuel consumption data capture rate is equal to or greater than 95.0 percent during the data year, the operator must develop an estimate based on available process **or flow rate** data that are routinely measured and recorded at the unit...”

Additionally, WSPA recommends including the “flow rate data” reference in Section 95129(d)(3), Alternate Missing Data Procedures for Fuel Consumption Data, as follows:

- “(3) Alternate Missing Data Procedures for Fuel Consumption Data – This paragraph applies to fuel combusting units that cannot use the missing data procedures in paragraphs (d)(1) or (d)(2). If fuel consumption....the operator may estimate the missing unit-level fuel consumption data using available process **or flow rate** data that are routinely measured at the facility (e.g., electrical load, steam production, operating hours **or other fuel flow rate meters**).”

Because the missing data provisions are based on 40 CFR 75, WSPA recommends that the look back period for missing data with data capture rates between 95% to 80% in Section 95129(d)(2) be consistent with 40 CFR 75, which requires the look back period to be 2160 hours. This will provide a consistent method of determining missing data substitution values between 40 CFR 75 and Section 95129(d)(2).

### **Section 95129(h) – Procedures for Approval of Interim Fuel Analytical Data Collection Procedure During Equipment Breakdowns**

While WSPA supports the equipment breakdown procedures described in Section 95129(h), we recommend ARB revise subpart (1)(A), and revise the >20% trigger threshold to >10%. WSPA

believes a >10% trigger threshold is more appropriate as it would give operators the ability to petition the Executive Officer to use interim monitoring procedures that will result in more accurate data, rather than the alternative data substitution method requiring the use of the highest data on record.

Without such change, operators that have a data loss rate of less than 20% would have no choice but to substitute using the highest data recorded. This would artificially increase the amount of emissions reported.

Similarly, those operators who have a breakdown resulting in a data loss greater than 20% would have the option to petition the Board to develop interim data substitution procedures and not be forced to substitute missing data with the highest recorded values. This approach is superior because interim methodologies will result in more accurate data.

In addition, WSPA recommends ARB should incorporate similar equipment breakdown condition options for the missing data provisions in Sections 95113, 95114, 95115, and 95129.

### **Section 95114, Including Subsection (b) – CO<sub>2</sub> from Fossil Fuel Combustion**

WSPA recommends ARB allow operators to use the same calculation method described in EPA Subpart P for emissions associated at hydrogen production plants.

Subsection (b), section states when calculating CO<sub>2</sub> emissions from fuel combustion under Subpart C, as specified in 40 CFR 98.162(b)-(c), the operator must use a method in 40 CFR 98.33(a)(1) to 98.33(a)(4). WSPA recommends ARB revise this section by deleting the referenced citations of 98.162(b)-(c), as we understand in the EPA MRR technical revisions published in the Federal Register on 10/28/10, the 98.162(b) reference has been removed and 98.162(c) applies to non-H<sub>2</sub> plant furnaces.

ARB should include 98.162(a) as the referenced procedures for reporting H<sub>2</sub> plant emissions.

### **Section 95114(e)(1) – Hydrogen Plant Sampling Frequencies**

This section requires operators of Hydrogen plants to use a “weighted average carbon” content from the results of one or more analyses for “month n for natural gas or from daily analysis for gaseous fuels and feed stocks other than natural gas.”

This sampling frequency exceeds the sampling requirements in the federal EPA MRR reporting requirements referenced in 40 CFR 98.163(b)(1), which state that daily sampling and analysis to determine carbon content and molecular weight is required, if the necessary equipment is in place to make such measurements. However, if such equipment is not in place, sampling and analysis on a weekly basis shall be conducted.

WSPA recommends ARB revise Section 95114(e)(1) and make the sampling frequency requirements consistent with federal 40 CFR 98.163(b)(1).

### **Section 95121 (a) & (b) – Reporting of Fuel Components**

WSPA recommends ARB clarify this section such that the requirement to report fuel components [as per Section 95121 (a) and (b)], relates to CARBOB and ethanol and not the various individual

hydrocarbon streams that may be included within the base gasoline used to manufacture CARBOB.

### **Section 95121(c)(1) – Monitoring and QA/QC Requirements**

WSPA would like to discuss with ARB Section 95121(c), to better understand and clarify the conditions by which fuel position holders are either subject to or exempt from the calibration and measurement accuracy requirements in 40 CFR 98.3.(i). WSPA currently believes that 40 CFR 98.3(i) is not applicable to any position holder, enterer, refiner or biomass-derived fuel producer.

### **Section 95123(b)(1)(A-D) – Calculation Methods for Suppliers of CO2 and Missing Data Substitution Procedures:**

Section (b)(1)(A through D), describes the missing data substitution procedures required for suppliers of CO2. As described in the missing data provisions in Sections 95112-115 and 95129 above, WSPA recommends ARB include in this section language that operators have the ability to utilize alternative calculation methods to develop missing data, such as allowing the use of the EPA provision described in Subpart PP.

If alternative options cannot be utilized, only then should operators be required to follow the missing data provisions described in subparts A through D.

### **Section 95113(d) – Calculating CO2 from Flares**

This section requires the use of 40 CFR 98.253 equation Y-1 or Y-2 to calculate CO2 emissions for periods of normal flare operation. In 40 CFR 98.253, normal operating flares that cannot meet the monitoring requirements necessary to apply equation Y-1 and Y-2 can use equation Y-3 per 40 CFR 98.253(b)(iii). However, in Section 95113(d), equation Y-3 is modified to only be used for SSM flaring.

Given this situation, WSPA recommends that ARB revise Section 95113(d) to allow facilities to report CO2 emissions from normal flares that cannot use equation Y-1 or Y-2 by following 40 CFR 98.253(b)(iii)(B) and using equation Y-3 per 40 CFR 98.253(b)(iii)(C).

### **Section 95115(c)(3) – Calculation Methods for De-minimis Sources for Stationary Fuel Combustion Sources**

This section requires the use of Tier 1 through 4 for all de-minimis stationary fuel combustion sources or for a fuel providing less than 10% of annual heat input to a unit with a maximum rated heat input capacity of 250 MM BTU/hr or less, unless not permitted under 40 CFR 98.33(b). In 40 CFR 98.252(a), EPA allows the use of Tier 1 or Tier 2 methods for Subpart Y fuel combustion sources that can meet the requirements in 40 CFR 98.252(a)(1) or (2).

In addition, there are potential minor sources that 40 CFR 98 would not require reporting, but can be considered de-minimis per AB 32. However, a facility cannot meet the data needs for the application of Tier 1, 2, 3 or 4 methods per 40 CFR 98.33(a) and (b) to report these de-minimis emissions.

Given this situation, WSPA recommends that ARB revise the Section 95115(c)(3) to allow for the use of engineering calculations to determine emissions from de-minimis fuel combustion sources if Tier 1 through 4 cannot be used.

**Section 95103(g) – Non-submitted/Non-verified Emissions Data Reports**

This section states the Executive Officer shall develop an assigned emissions level for the reporting entity if it fails to submit the emissions report or fails to obtain a positive or qualified positive verification option. However, there is no specific date for which the assigned emissions level will be provided. In order to meet the Cap and Trade Regulation, the assigned emissions level should be made available by a date certain.