BP America, Inc

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Via Email
Michael Waugh
California Air Resources Board
1001 I Street, P.O. Box 2815
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Subject: BP comments re CARB 3rd 15-day package amendments to LCFS regulation

Dear Mike:

BP submits these comments regarding changes proposed by CARB in the 3rd 15-day amendments to the LCFS regulation published by CARB on 9-17-12. BP wishes to augment comments submitted by the Western States Petroleum Association (WSPA). There are three subjects of importance on which we wish to comment.

2010 Baseline Value for Ethanol

The LCFS requires a 10% reduction—from a 2010 baseline year through 2020—in the carbon intensity of both gasoline and diesel. The carbon intensity for gasoline is a combination of the carbon intensity for the fuel from the refinery (CARBOB) and the ethanol added at the terminals.

The LCFS was first adopted in 2009. CARB used estimates of what the carbon intensity for ethanol and CARBOB would be in 2010 to project the baseline. In the latest 15-day package of rule amendments, CARB has updated the carbon intensity for CARBOB based on 2010 data along with the annual compliance targets, but has not done so for ethanol.

The original ethanol projections assumed a much larger supply of lower carbon intensity ethanol from California which has not materialized. The original estimate assumed 20% of lower CI ethanol from California, but according to the CEC's 2011 IEPR, the actual amount of lower CI California ethanol was only 4% (see page 146). Assuming ethanol with inaccurate lower carbon intensity in the baseline results in more aggressive annual reduction targets than the regulation requires. CARB should utilize scientifically-based, accurate data.

For BP alone, CARB's current proposal to not update the CI value for ethanol results in additional costs in the 10s of millions of dollars between 2013 and 2015 alone. CARB's proposal also requires BP and other refiners to find and import more even larger volumes of scarce advanced

biofuels like sugar cane ethanol and renewable diesel. This makes an already challenging standard even more difficult and costly than necessary.

BP requests that CARB use available data for actual ethanol blended into fuel in California during the year 2010 to establish an accurate baseline for gasoline and adjust the compliance target accordingly in Tables 1 and 2 of Section 95482. CARB has this data via the reporting requirements in the LCFS or from the CEC.

Perverse incentives in CARB's proposal for the credits related to the innovative crude carbon intensity reduction provisions.

CARB has added substantial new provisions in 95486(b)(2)(A)(4) enabling companies to apply to CARB for the ability to obtain credits for projects that reduce the carbon intensity of crude oil during production. Such projects are termed "innovative crude production methods" in the regulation. It is BP's understanding that any company using a crude where such a technology has been installed and CARB has approved a CI reduction for that crude may generate credits in proportion to the volume of that crude. CARB has also proposed to incorporate the post-control CI value into the annual CA average crude CI calculation. Several new provisions have been added by CARB in an attempt to outline the approval process for these reduction projects to ensure a robust analysis of the CI reduction.

However, BP found no safeguards in the new provisions that would prevent a potential scenario, described below, incenting increased volumes of crudes where such a CI reduction has occurred; but, at the same time, causing the CA average CI to increase. Such an increase to the average runs counter to CARB's policy objective to prevent or minimize increases in the average CI of crudes used in California.

The scenario that BP is concerned about is a case where a company processing a particular volume of crude with a high CI in California successfully applies an innovative CI reduction project with the appropriate CARB approval. For example, a company has been processing 30,000 bbls/day of a 20 CI crude that has now been reduced to a 15 CI crude using an innovative technology. If that company or other companies begin processing additional volumes of this particular crude (i.e., 60,000 bbls/day), these same companies could be foregoing even lower CI crudes to take advantage of the specific credit opportunities afforded those who process crudes to which these innovative production techniques have been applied. Unfortunately, such a scenario would lead to an increase in the average CI of the crude being processed in California despite the improved CI on the particular crude. BP requests that CARB consider adding additional provisions to safeguard against such a scenario.

Adequate monitoring and efficacy of innovative crude production methods and associated credits

Despite the addition of substantive provisions guiding the use of innovative crude technologies for reducing CI, the current provisions fall short of a robust defensible methodology. There is no monitoring to ensure the innovative reduction technology remains in use - the crude supplier could switch it off once the application has been approved and the EO has entered CI with and CI without the technology into the look-up tables. BP requests that CARB add provisions to the regulation ensuring that the equipment approved as resulting in a CI reduction continue to operate in a manner consistent that yields the claimed reductions. This is the equivalent of ensuring that the CI reductions are 'permanent' similar to other emission reduction credit programs.

The methodology does not specify whether the proof requires the use of OPGEE design parameters or actual measured parameters over a period of time beyond the initial application. A crude oil should not be classed as innovative based solely on design parameters, but should only be classed as innovative based on a reasonable period of operation. BP requests that CARB add appropriate safeguards to the regulation to ensure that real operating data be assessed to confirm the reduction claimed in the application. This is the equivalent of ensuring that the CI reductions are 'real' and 'verifiable' consistent with other emission reduction credit programs.

Please don't hesitate to contact me should you have questions regarding this correspondence.

Sincerely,

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cc (via email): Richard Corey
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