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Michelle Buffington.
California Air Resources Board
Sent via Email Only

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Dear Michelle,

Please find my comments on Topic 5, Ultralow Carbon Fuels, below. The comments are enumerated so as to coincide with the sections they represent (in the Draft version dated 4/22/11).

A.1.a. I believe the Staff conceded the point that the 60% threshold was simply a placeholder, so I will not belabor the issue. I do want to voice my agreement though with the commentator that pointed out that none of the existing plants and many of the projects under development for commercial scale gasoline blendstocks or alternatives will not be sufficient to meet 2020 thresholds at current blend rates. So, to include cellulosic ethanol and algal biofuels in this section seems somewhat out of place. They would seem to be better found in Topics 4 "Advances in Production" or 6 "Supply and Commercialization". With that said, I will carry on with my comments assuming they will remain in Topic 5. One note of correction on the 60% number is that RFS2's 60% requirement is coupled with the use of cellulosic feedstocks which then meets their definition of cellulosic biofuel. For advanced biofuel from renewable resources, other than corn starch, the greenhouse gas reduction requirement is 50%.

A.2.c. This may be better suited for a new subpoint, but it is important to note that while ultralow carbon fuels may otherwise be developed as a result of increasing requirements under RFS2, a number of the currently proposed sites, and presumably many of the future projects, will not be situated where it would be cost effective for the CA consumers to pay for the transportation of the fuel to California.

Additionally, with the EPA's willingness in the early years of the program to waive the requirements for cellulosic biofuel, there is less incentive for the marketplace to develop those projects, thus delaying their commercialization.

B.1.c. Technically, the only renewable fuel type under RFS2 that can still be referred to as a gallon requirement is the Biomass-Based Diesel (although even this value is converted to a percentage of fuel for Obligated Parties to comply with). So, while the EPA's calculation is that 6 million cellulosic RINS will be generated in 2011, they anticipate 6.6 million gallons of cellulosic biofuel will be produced. The reason for the discrepancy is that RFS2 adjusts the number of RINS generated by a given fuel based on its energy content relative to ethanol (a program attribute that does not exist in the LCFS). Consequently, Staff will need to be careful about drawing comparisons between the RFS2 'volume' requirements and those of the LCFS, especially since the EPA's Primary Control Case for 2022 volumes only estimates 4.92 billion gallons of cellulosic ethanol will be available (reference Table 1.2-3, pg 70, Final Regulatory Impact Analysis, http://www.epa.gov/otaq/renewablefuels/420r10006.pdf).

B.1.f. It would be worth elaborating on what assumptions are going into the analysis that says compliance can still be achieved in the absence of cellulosic ethanol until 2013. The level of lower CI material available under the number of Method 2 A/B was obviously underestimated in the original scenarios developed by the Staff which gets everyone closer to compliance, but all but one of the Gasoline Demand Scenarios rely on respectable amounts of sugarcane ethanol coming into CA as early as this year. Additionally, all Scenarios counted on 300MMGY of CA ethanol being produced, and the current capacity is only at 40MMGY with another 40MMGY of potential, but historically uncertain, production on the way in 2011. Without seeing the calculations in Staff's updated analysis, it is impossible to make an informed decision regarding the validity of the conclusion.

B.1.h. As suggested in the comment for A.2.c, it would be prudent to plot the locations of these facilities under development and identify the transportation costs associated with delivering their fuel to CA, in addition to scoring the probability that they will achieve commercial viability.

B.3.c. Again, ultralow technologies/projects that are suitable for certain areas of the country may not lend themselves to being competitively delivered into CA or to being located to an area in or around CA, due to a variety of constraints (feedstock availability, climatic requirements, siting/permitting issues). Hence, to identify potential projects without a corresponding discussion on how they would directly impact the availability of ultralow carbon fuels in CA seems to leave a potentially overly optimistic impression of the availability of the fuels.

B.5.e.(new) I concur with the Panelist who suggested that some forecast of 'motor fuel' taxes or their equivalent be incorporated into the model that is used to anticipate consumer acceptance/demand of alternative transportation fuels that currently fall outside of the fuel tax regulations.

B.6.e.(new) My comments in segment A.2.c would apply here too.

D.2. The most equitable and economic way to encourage investment (assuming there is not a pool of money that stands ready to be allocated to any and all ultralow carbon projects) is to provide a fair, attainable, and static compliance schedule with penalties for non-compliance significant enough to deter any consideration of not adhering to the standard.

For example, the cellulosic biofuel mandates under RFS2 were clearly overly optimistic in the early years. As such, the EPA has been forced to waive the majority of that volume for 2 years in a row. With the rapid acceleration of the compliance schedule in RFS2, it becomes difficult to envision a scenario where the technology will catch up with the regulation. That scenario will naturally draw the credibility of the entire Standard into question eventually, and it is those types of regulatory uncertainties that make investors very nervous when they are committing capital to policy-driven technology.

E.2 I agree with the commentators that took issue with the concept of a credit multiplier or other mechanism that goes beyond the existing regulations to pick winners and losers in fuel types and/or origins. The EPA tried this with cellulosic biofuel under RFS1 and abandoned the scheme under RFS2. The value of the CI credits themselves should be adequate to signal the marketplace as to the value of the types of fuels and\or vehicles that are desired by the regulated parties in order to meet their compliance obligations.

Additionally, expanding the generation of credits to the providers of vehicle fleets, alternative fueling infrastructure, or by allowing credit generation in advance of project completion\fuel availability are all concepts that seem to stretch beyond the bounds of what title 17, CCR § 95480 et seq grants the ARB authority to do. Hence, I do not support consideration of those topics in this forum.

In summary, placing additional incentives or complexities on top of the existing infrastructure, especially before the efficacy of the original design is known will make any future modifications that much more complicated and will likely mask additional opportunities or problems beyond the point where they otherwise could have been identified. The more that is done to layer credits on top of credits, the more likely it is that perverse incentives are created or uncertainties are introduced that scare off investors in new technologies.

Sincerely,

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