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Vice President

August 14, 2019

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via e-mail at: LCFSworkshop@arb.ca.gov

Re: WSPA Comments on July 31, 2019 CARB LCFS Workshop to Discuss Potential Amendments to the Cost Containment Features of the LCFS Program

Dear Jim,

The Western States Petroleum Association (WSPA) appreciates the opportunity to provide the following comments regarding the July 31, 2019 California Air Resources Board (CARB) Low Carbon Fuel Standard (LCFS) Workshop to discuss potential amendments to the cost containment features of the LCFS program. WSPA is a non-profit trade association that represents companies that explore for, produce, refine, transport, and market petroleum, petroleum products, natural gas and other energy supplies in California and four other western states.

As stated in our comment letter of May 2, 2019, WSPA continues to appreciate CARB staff's efforts to respond to stakeholders' concerns regarding a mechanism to supply credits to balance all deficits in the Credit Clearance Market (CCM) on an annual basis without having entities carry over deficits. The proposal presented by CARB staff during the Workshop does not provide a means to comply with the challenging 20% carbon intensity (CI) reduction target by 2030 that the program has established, if there is a structural shortage of credits in the program. Some aspects of the recent proposal, however, are another step in the right direction. WSPA remains steadfast that the program must provide a method to ensure compliance for regulated entities through a predictable mechanism, which recognizes that the pace of technology and projects may not flange up with the CI reduction trajectory that has been prescribed.

Regarding the concepts identified during the July 31, 2019 Workshop, WSPA has the following feedback:

Limiting Invalidation Liability

WSPA supports the concept that if any credits that a party is required to purchase in the CCM are later invalidated, that the buyer of these credits would not be held liable. WSPA fully concurs that the provider of such an invalidated credit be required to remedy the invalidation, as per current regulation.

Credit Deficit Listing

WSPA supports removing the requirement that CARB publicly list the number of credits that a regulated entity must purchase in the CCM, for the important reasons that CARB articulated in its proposal at the meeting. It is critically important that confidentiality of credit positions in the market

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be maintained to ensure that the market remains competitively viable and individual market participants are not competitively disadvantaged.

Compliance Plan

While CARB has proposed not to publicly post compliance plans, WSPA suggests that requiring a party to submit a compliance plan so intimately tied to a sensitive commodity market is crossing a threshold that is inappropriate for a regulator. While CARB has correctly pointed out that protection of such confidential business information (CBI) is paramount, the most effective way to do this is to not seek such CBI from parties in the first place. Should CARB continue with the desire for entities to provide such a market sensitive compliance plan, it would indeed be imperative that these are maintained with the strictest of confidentiality and only available to select CARB staff with very tight controls.

Borrowing Window and 10 MM Credit Limit

Along with renaming of "advance credits" to "borrowed credits", CARB staff introduced a 6-year borrowing window that would commence the first year that borrowed credits were needed. WSPA believes that this concept has merit but should be adapted to an annualized provision to fill any credit gap once the buffer account and normal CCM mechanisms have provided as many credits into the market as can be made available. The 6-year limitation seems unnecessary and removing this limit would unlock an important degree of freedom that the program needs to provide certainty of compliance and provide significant early funding for program ambitions.

The maximum number of credits that would be made available, 10 million (MM) credits, remained unchanged from the previous CARB proposal. As noted by WSPA in the May 2, 2019 comment letter, there is uncertainty related to how many credits may need to be pulled forward or provided by some other mechanism to ensure adequate credits are available to keep the program robust in the absence of compliance target adjustments.

We continue to believe that 10 MM credit limit is unnecessary. Removing this limit, along with redefining the borrowing approach as outlined above, eliminates the need to carry a deficit and ensures the program remains liquid, enhancing its stability. In addition, a greater number of borrowed credits provides additional earlier funding for alternative fuels. As CARB has asserted that there will be sufficient credits available in future years, there should be no need to limit the amount of such credits borrowed. To facilitate this, additional consideration should be given to opening this borrowing approach to other sources of credits, consistent with the fuel neutrality goal set by CARB.

WSPA appreciates the opportunity to provide feedback on this important issue. If you have any questions, please contact me at (805) 701-9142 or via email at tom@wspa.org.

Sincerely,



Cc: Catherine Reheis-Boyd – WSPA