



Tesoro Refining & Marketing Company LLC

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SUBMITTED ELECTRONICALLY

April 28, 2022

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**Re: Comments to the Washington State Clean Fuels Program Rule
Chapter 173-424 WAC, Table 9**

Mr. Creswell:

Tesoro Refining & Marketing Company LLC (TRMC), a wholly owned subsidiary of Marathon Petroleum Corporation (collectively referred to as “MPC”), appreciates this opportunity to comment on Washington State’s Clean Fuels Program Rule Chapter 173-424 WAC, Table 9.

The Draft CI Tables¹ for Washington Clean Fuel Standards emailed on April 26, 2022, by Rachel Assink to Washington Department of Ecology’s (DOE) 173-424 WAC distribution list, but not published on the rulemaking website, highlights a significant issue that must be addressed prior to DOE movement into the proposed rulemaking process, CR-102. The issue is related to the timing of approving established Pathways previously Certified by the California Air Resources Board (CARB) and the Oregon Department of Environmental Quality (ODEQ) for use in Washington state. MPC recommends the timing of the approval to use an existing Certified Pathway from either California or Oregon be immediate upon adoption of the Washington Clean Fuel Standard (CFS).

Recognition of established Pathways is necessary because of the work DOE is currently undertaking to establish the Cap and Invest (C&I) program. Senate Bill 5126 (SB 5126) authorized DOE to implement the C&I program with a baseline that only includes “anthropogenic greenhouse gas emissions”². SB 5126 also included a novel definition of a “biomass-derived fuel.” Under SB 5126, “biomass-derived fuel” means:

¹ See Appendix

² Section 9, lines 3 – 10 [SB 5126](#)

“fuels derived from biomass that have at least 40 percent lower greenhouse gas emissions based on a full life-cycle analysis when compared to petroleum fuels for which biofuels are capable as serving as a substitute.”³

Table 9 of the Draft CI Tables⁴ for Washington Clean Fuel Standards includes Temporary Fuel Pathway Codes (FPC) for corn and sorghum ethanol, plant oil-based biodiesel and plant oil-based renewable diesel with CI's that when compared to petroleum fuels they are replacing exceed the C&I biomass-derived fuel definition in the C&I program. For example, clear diesel has a CI of 101.09 gCO₂e/MJ whereas a plant oil-based biodiesel or renewable diesel has a Temporary CI of 65 gCO₂e/MJ. This Temporary pathway value does fall below the definition for biomass-derived fuel in SB 5126. To meet SB 5126 definition, the same plant oil-based biodiesel or renewable diesel would require a CI value below 60.6 gCO₂e/MJ to be considered a biomass-derived fuel and therefore exempt from a C&I obligation. Both CARB and ODEQ have established Pathway Certification process in place, CARB alone has forty (40) Certified Pathway examples⁵ of plant oil-based biodiesel and plant oil-based renewable diesel that fall below 60.6 g CO₂e/MJ.

Not utilizing established Certified Pathway's at the onset of the CFS appears to be an administrative burden for DOE. For a fuel supplier this burden is significant beyond the CFS and could add 10 to 15 percent to a fuel suppliers' obligation under the C&I program. DOE has not accounted for these biogenic CO₂⁶ emissions in its C&I baseline inventory as SB 5126 required. Retiring allowances in the C&I program because a fuel must use a Temporary CI due to an administrative burden is problematic.

MPC recommends DOE approve established Certified Pathways upon petition by the Pathway holder prior to the adoption of the CFS. DOE may then, upon review of the established Certified Pathway, administer a true-up process to adjust for any imbalance of credits related to the difference in the established Certified Pathway CI and the same established Certified Pathway CI adjusted to reflect a different transportation distance and/or indirect land use, as necessary, following the first Annual Compliance Report due date.

Closing

MPC recommends additional time be provided to stakeholders to discuss this important aspect of the CFS with DOE. Two days does not provide enough time to highlight the materiality of the information provided on April 26, 2022. Thank you again for this opportunity to comment on the Preproposal Statement of Inquiry, CR-101.

³ Section 2, definition 12, lines 23 – 27 [SB 5126](#)

⁴ *Supra*, Appendix

⁵ CARB [Current Fuel Pathways](#)

⁶ DOE C&I [workshop slides](#), slide 19

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Sincerely,

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Appendix

 WAC 173-424 Table 9 Washington Temporary Fuel Pathway Codes for Fuels with Indeterminate CIs				
Fuel	Feedstock	Process Energy	FPC	CI (g CO ₂ e/MJ)
Ethanol	Corn	Grid electricity, natural gas, and/or renewables	WAETH100T	90 ⁹
	Sorghum	Grid electricity, natural gas, and/or renewables	WAETH101T	95 ¹⁰
	Sugarcane and Molasses	Bagasse and straw only, no grid electricity	WAETH102T	55
	Any starch or sugar feedstock	Any	WAETH103T	Baseline (2017) CI for WA Gasoline
	Corn Stover, Wheat Straw, or Sugarcane Straw	As specified in WA-GREET	WAETH104T	50
Biodiesel	Any feedstock derived from animal fats, corn oil, or a waste stream	Grid electricity, natural gas, and/or renewables	WABIOD200T	45
	Any feedstock derived from plant oils except for Palm-derived oils	Grid electricity, natural gas, and/or renewables	WABIOD201T	65
	Any feedstock	Any	WABIOD202T	Baseline (2017) CI for WA ULSD

⁹ Reflects an ILUC value of 19.8. If ILUC value under WA CFS is modified, this may be adjusted accordingly.
¹⁰ Reflects an ILUC value of 19.8. If ILUC value under WA CFS is modified, this may be adjusted accordingly.

 WAC 173-424 Table 9 Washington Temporary Fuel Pathway Codes for Fuels with Indeterminate CIs				
Fuel	Feedstock	Process Energy	FPC	CI (g CO ₂ e/MJ)
Renewable Diesel	Any feedstock derived from animal fats, corn oil, or a waste stream	Grid electricity, natural gas, and/or renewables	WARNWD300T	45
	Any feedstock derived from plant oils except for Palm-derived oils	Grid electricity, natural gas, and/or renewables	WARNWD301T	65
	Any other feedstock	Any	WARNWD302T	Baseline (2017) CI for WA ULSD
Biomethane CNG	Landfill or Digester Gas	Grid electricity, natural gas, and/or renewables	WACNG500T	70
	Municipal Wastewater sludge, Food Waste, Green Waste, or Other Organic Waste	Grid electricity, natural gas, and/or parasitic load	WACNG501T	45
Biomethane LNG	Landfill or Digester Gas	Grid electricity, natural gas, and/or renewables	WALNG501T	85
	Municipal Wastewater sludge, Food Waste, Green Waste, or Other Organic Waste	Grid electricity, natural gas, and/or parasitic load	WALNG502T	60
BiomethaneL-CNG	Landfill or Digester Gas	Grid electricity, natural gas, and/or	WALCNG502T	90