

## Tesoro Refining & Marketing Company LLC

539 South Main Street Findlay, OH 45840

## SUBMITTED ELECTRONICALLY

April 28, 2022

Joel Creswell Climate Policy Section Manager Washington State, Department of Ecology 300 Desmond Drive SE, Lacey, Washington 98503

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". SB 5126 also included a novel definition of a "biomass-derived fuel." Under SB 5126, "biomass-derived fuel" means:

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<sup>&</sup>lt;sup>1</sup> See Appendix

<sup>&</sup>lt;sup>2</sup> Section 9, lines 3 – 10 <u>SB 5126</u>

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"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."

Table 9 of the Draft CI Tables<sup>4</sup> 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 examples<sup>5</sup> 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 CO<sub>2</sub><sup>6</sup> 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.

<sup>&</sup>lt;sup>3</sup> Section 2, definition 12, lines 23 – 27 SB 5126

<sup>&</sup>lt;sup>4</sup> Supra, Appendix

<sup>&</sup>lt;sup>5</sup> CARB <u>Current Fuel Pathways</u>

<sup>&</sup>lt;sup>6</sup> DOE C&I workshop slides, slide 19

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Sincerely,

Brian McDonald
Marathon Petroleum Corporation | Corporate Environmental
<a href="mailto:bcmcdonald@marathonpetroleum.com">bcmcdonald@marathonpetroleum.com</a>

Cc: Jason Alberich, Rules and Planning Unit Supervisor Rachel Assink, Rulemaking Lead Debebe Dererie, Fuel Pathway Specialist Abbey Brown, Technical Lead

## Appendix

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ECOLOGY WAC 173-424 State of Washington Table 9 Washington Temporary Fuel Pathway Codes for Fuels with Indeterminate Cls				
Fuel	Feedstock	Process Energy	FPC	CI (g CO₂e/MJ)
	Com	Grid electricity, natural gas, and/or renewables	WAETH100T	909
Ethanol	Sorghum	Grid electricity, natural gas, and/or renewables	WAETH101T	95 <sup>10</sup>
	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

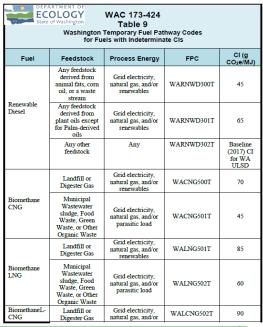
<sup>&</sup>lt;sup>9</sup> Reflects an iLUC value of 19.8. If iLUC value under WA CFS is modified, this may be adjusted accordingly.
<sup>10</sup> Reflects an iLUC value of 19.8. If iLUC value under WA CFS is modified, this may be adjusted accordingly

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<sup>8</sup> WA CFP CI Tables