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June 21, 2024

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Deputy Executive Officer
California Air Resource Board

Via electronic submittal to: [regulatory docket](#)

Re: May 31, 2024 CARB Cap-and-Trade Workshop – Comments on Potential Changes to Ethanol Denaturant and Non-fossil fuel MRR provisions

Ms. Sahota and CT Team,

RPMG Inc. (RPMG) appreciates the opportunity to comment on the concepts presented during the May 31, 2024 Cap-and-Trade workshop, specifically those related to Ethanol Denaturant and Non-fossil fuel MRR provisions, slides 40 and 44-45 respectively.¹

RPMG is a biofuel marketing company representing our owner and marketing partner bioethanol facilities located throughout the Midwest. Our entities are dedicated to fostering innovation while maintaining the highest level of regulatory compliance, including considerable resources spent on auditing, verification and quality assurance aspects of the denaturant specifications for California Reformulated Gasoline and California's LCFS program. RPMG member facilities provide both bioethanol and distillers corn oil (DCO) as essential inputs to California's low carbon fuels market in material quantities. These inputs would end up the State's diesel and gasoline liquid transportation fuel pools.

RPMG has not been required to participate in the Cap-and-Trade or Mandatory Reporting Regulation (MRR) due to the biogenic nature of the products produced and imported to California. This most recent workshop highlighted potential changes that could bring RPMG into these existing regulatory schemes. This expansion of regulatory requirements is something RPMG takes very seriously, and is highly concerned about the growth of regulatory obligations with the inclusion of these requirements. Our comments below reflect both the necessity to know more from CARB than what was presented at the workshop, but also a willingness to assist in helping the Cap-and-Trade and MRR staff fully understand our industry.

Ethanol Denaturant

The presentation contained a single slide on the subject of ethanol denaturant, which stated, without providing any context, that "all" ethanol denatured is derived from fossil fuels. Although denaturant has historically been primarily derived from fossil fuels, the certainty presented may need to be revised as it may not be accurate in the future. This is especially true if there could be Cap-and-Trade obligations associated with it. CARB should not assume that the ethanol industry would not react to regulatory forces,

¹ https://ww2.arb.ca.gov/sites/default/files/2024-05/nc_CapTradeWorkshop_May3124.pdf

or in this case, incentives. Hard-wiring into the Cap-and-Trade regulation and MRR an assumption that all denaturant will be fossil-based, and therefore come with an obligation, should be avoided.

RPMG and the bioethanol industry at large are evaluating alternative biogenic denaturant supply meeting all technical and varied specification parameters, including: federal TTB formulation requirements, federal fuel regulation and specification requirements for Certified Ethanol Denaturant (CED), ASTM standard specifications for fuels, California Reformulated Gasoline specifications, California Alternative Fuels regulations and requirements for E-85 and higher level ethanol blends, and importantly Life Cycle Analysis (LCA) emission factor inputs for all federal Renewable Fuel Standard (RFS), Inflation Reduction Act (IRA) and state/regional Low Carbon Fuel Standard (LCFS) carbon intensity score requirements. This alternative biogenic denaturant supply source may become available in volumes required for commercial demands in the near future by virtue of the rising production of renewable and biogenic liquid fuels and necessary coordination of adaptation in regulatory oversight.

CARB specifically requested feedback on a potential default percentage of fossil denaturant, set at 2.5%². Any Federal or fuel specification maximum limit is not an actual or real-world value, which in order to be compliant throughout the entire commingled supply chain will always be lower at origin. Using the upper limit of a specification would by default penalize each gallon of low-carbon ethanol brought to California.

RPMG also notes that the LCFS Ca-GREET model already takes into account the carbon-intensity of fossil-based denaturant. Therefore, the proposed change would double count of each amount of carbon associated with the fuel.³

Non-Fossil Transportation Fuels – MRR Proposed Changes

As an importer of non-fossil fuels into California, RPMG is concerned with the potential changes being proposed, specifically these bullets on slide 45:

- Add enterers of non-fossil fuels and in-state non-fossil producers supplying outside of bulk terminal to transportation fuel supplier Point of Regulation (POR)
- Add data reporting requirements for non-fossil fuel volumes subject to MRR emissions reporting

As with the ethanol denaturant slide (#40), CARB presents a concept as if it is already decided, and then asks for feedback on an implementation question. In this case, if importers would have difficulties documenting volumes under their control. Given business is based on commercial product volumes being accurately documented for sales and tax reporting, RPMG will need additional clarity regarding flexibilities

² The federal limit set by the IRS is 2.49% and the federal limit set by Fuel Regulations is 3%, and the ASTM specification limit is set as 5%.

³ <https://ww2.arb.ca.gov/resources/documents/lcfs-life-cycle-analysis-models-and-documentation>
<https://www.arb.ca.gov/fuels/lcfs/ca-greet/tier1-sfe-calculator.xlsm>
<https://www.arb.ca.gov/fuels/lcfs/ca-greet/tier1-sfe-im.pdf>

for data collection in various unique production environments and engage directly with CARB staff on the feedback requested.

The workshop suggested potential changes to the eligibility for two far-reaching and complex regulations late in the informal rulemaking period, and only provided a couple of high-level slides. RPMG finds it difficult to really, and fully, understand the breadth of the implications of these potential changes. Therefore, RPMG suggests a more robust and detailed discussion to occur with impacted stakeholders prior to any 45-day package being released. To gain a deeper understanding of the current regulation—which does not apply to us today—and the proposed changes, RPMG will follow up with CARB staff. If staff could provide strikeout/underline language, or citations to the specific rule sections, that would also be helpful to stakeholders. Additional clarity is sought if the proposal includes all instances of non-fossil fuels or for targeted examples.

The question of cost/benefit was also not discussed in the workshop. This potential expansion of regulatory requirements in terms of both compliance and administrative aspects is material, yet the GHG impact of denaturant used in California’s gasoline supply is less than 0.1% of the current annual GHG statewide budget.⁴ RPMG questions whether the costs are worth the ‘benefit’ to the program? Has CARB calculated these costs, either in terms of individual stakeholders impacted, or on the program itself, if indeed denaturant GHGs become obligations under the ever-tightening cap? This topic was not discussed within the Cap-and-Trade’s SRIA.⁵ A quick review of the GHG inventory data shows there are numerous categories, with greater emissions impact than that of denaturant, that remain outside of the program.⁶ RPMG would suggest that the costs of expanding participation in *both* Cap-and-Trade and MRR for such a small impact, may not be worth pursuing.

In Closing

RPMG takes compliance, and carbon reductions, seriously. It is therefore of utmost importance for CARB to clearly outline, in detail, the proposed changes, and the basis for those policy or technical justifications so that stakeholders fully grasp what is being asked of them in the future. RPMG will follow up on these issues, but we are submitting these comments as a placeholder to assist staff until a detailed discussion can be scheduled.

⁴ Calculations completed with public data from CEC and US EPA conversion factors.

⁵ https://ww2.arb.ca.gov/sites/default/files/2024-04/nc-Cap-and-Trade_SRIA2024.pdf

⁶ <https://ww2.arb.ca.gov/applications/greenhouse-gas-emission-inventory-0>

RPMG would like to highlight the benefits that our industry has made to California's GHG programs and thank CARB for the opportunity to contribute toward this regulatory proposal. We would also reiterate that with a regulatory structure which promotes innovation the biofuels industry can continue to lead the way in terms of reducing the carbon intensity of the biogenic liquid fuel market that will remain in the state for years to come. Please contact me with any questions or comments at jwhoffmann@rpmgllc.com.

Thank you,

/s/

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