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UCS comments on the Transportation Fuels Assessment

Additional submitted attachment is included below.

Union of Concerned Scientists

To: California Energy Commission and California Air Resources Board

From: Jeremy Martin

Date: May 17, 2024

Subject: Comments on the Transportation Fuels Assessment and the Fuels Transition Plan

The Union of Concerned Scientists (UCS) has been actively involved in California vehicle and fuel policy for many years. We appreciate that the California Energy Commission and the Air Resources Board have initiated the critical work of implementing SB X1-2 including the Transportation Fuels Assessment and the Fuels Transition Plan. We encouraged California to begin the crucial work of planning for a safe and equitable petroleum phaseout[1] and we are pleased that this critical work is now underway.

The Draft Transportation Fuels Assessment is an excellent resource for guiding this important process, and we appreciate the sound analysis and clear writing. As the draft assessment makes clear, the transition away from petroleum fuels has already begun. Gasoline consumption has begun to decline, and as electrification and VMT reduction strategies progress, the decline in gasoline consumption will accelerate. Today, California's fuel market concentrates a great deal of market power in a small number of companies that have the means and incentive to act in a manner that is harmful to consumers. The establishment of the Division of Petroleum Market Oversight and other elements of SB X1-2 brings increased scrutiny, transparency and accountability to this market. As gasoline consumption declines, the level of concentrated market power in the industry is likely to increase, and new authorities and regulatory structures will be required to protect consumers. The fuel market will change rapidly as the state phases out petroleum over the next two decades, and the required regulatory framework will also need to change to keep up. Two refineries have closed in the last 5 years and additional closures may occur in the next few years. As shown in Table 1., within the next two decades there could be just a single operating refinery in at least one of California's major fuel markets. This would give the last remaining companies market power unprecedented since the breakup of the Standard Oil Trust more than a century ago. However, where dissolution of the Standard Oil Trust was intended to create multiple competing companies and a more competitive fuel marketplace, new entrants are unlikely to enter a gasoline market in terminal decline. Instead, California must consider how to manage a transition that protects consumers and communities and prevents exercise of market power against the public interest.

In this dynamic context, what is needed is a predictable series of steps increasing the level of market oversight and regulation as the market becomes increasingly concentrated, moving toward a utility style cost of service regulatory model. This is a substantial change in the regulatory model for fuel markets and will take time and potentially new legislative authority to implement. It should be debated and developed well in advance of the date when an effective monopoly is established within the California fuel market. It is important to start an inclusive dialog now about the advantages and disadvantages of different options and the circumstances that would dictate each step forward before the state's hand is forced by sudden changes in the fuel marketplace.

[1] Martin, Jeremy. California Needs a Petroleum Phaseout Plan. August 2022.

In 2023, UCS commissioned a study by Dr. Christina Simeone titled *An Unrefined Ending: Lessons Learned from the Philadelphia Energy Solutions Refinery Creation and Closure*. This study focused on the local impacts of a single refinery closure. A key lesson was that failure to plan for the inevitable meant that decisions of profound importance to communities, workers and the city were decided hastily in bankruptcy court.

> *The inability to anticipate, build capacity, and plan for the refinery's closure left Philadelphia unprepared for the dynamic, fast-moving situation that ensued after the 2019 explosion. Primarily, the events represented a failure on the part of city leadership. Ultimately, a bankruptcy court auction determined the fate of the refinery property, with minimal input from city leaders and impacted workers and communities.*

The other lesson of Philadelphia refinery is that safety can be compromised as refinery operators shift their focus to a profitable market exit[2].

Ensuring that the fuel transition is not only affordable for California fuel consumers, but safe for the workers, communities and residents of the state is of utmost importance. SBX1-2 instructs the CEC to "identif[y] methods to ensure a reliable supply of affordable and *safe* transportation fuels in California," a directive that makes clear that safety is an equally important consideration as affordability. We encourage the CEC to augment the assessment with a focus on safety measures at refineries and actions to reduce the inherent safety risks associated with the production, transportation, and use of combustion fuels.

Specifics comments on the Assessment

Gasoline storage: Establishing requirements for minimum gasoline storage could buffer against short term supply disruptions and we support more detailed study of options to ensure adequate fuel storage.

We recommend consideration of a **policy option for direct payments to low-income consumers** to increase and protect the consumers' ability to pay for critical goods like fuel. In the latter phases of the petroleum phaseout the costs of a large fuel distribution infrastructure may fall on a declining share of the population that is unable to transition as rapidly to electric vehicles. Supporting electrification for all populations is an important focus, but it also important to make sure that costs are borne equitably, and while regulations of the industry can play a role, direct payments may also have a role to assure equitable burden sharing for the transition.

Changes to CARBOB specification in California or adjacent states. The assessment includes a discussion of several options that involve short- or long-term changes to California's gasoline specification. While alignment with other states would increase flexibility that could help with price stability, California must not backtrack on air-quality or public health, especially in overburdened communities. **Collaborating with adjacent states to improve their fuel specifications to match California should be the first option.** At the very least, any consideration of strategies that would weaken the air quality protections of the California gasoline specification on a temporary or permanent basis should include a detailed study of the air quality and health impacts that recognizes the uneven distribution of older cars that are likely to be more impacted by fuel changes and assesses how any policy change would affect the cumulative burden on already overburdened communities.

Other petroleum fuels and products. The analysis in the draft plan explains that a single refiner exiting gasoline production, through either closure or conversion to alternative fuels, could create disruptions and

[2] For more observations on the implications of the Philadelphia refinery closure study for California, see my post, Lessons Learned from the Philadelphia Refinery Closure. March 2023.

increase vulnerability to price spikes in the marketplace. **The assessment should more thoroughly explore how changes in demand for other petroleum products affect the gasoline refining market.** One recent example involves the increased consumption of renewable diesel, which has reduced the ratio of ULSD to CARBOB consumption by 50 percent in the last three years, from an average of 0.25 in the decade between 2011 and 2020 to 012 in 2023[3]. This ratio may continue to fall if the share of bio-based diesel in the California market continues to grow. When the mix of fuels consumed departs from the mix of fuels refiners can produce, it requires increased reliance on imports and exports of finished fuels to balance the product slate. While gasoline is appropriately the primary focus of the transportation fuel assessment, it is also important to understand how changes in supply and demand of other liquid fuels, including diesel, jet fuel and other petroleum products, influence the overall refining marketplace.

[3] Based on data from CARB LCFS Quarterly Data Spreadsheet.