DOCKETED

Docket Number:	23-SB-02
Project Title:	SB X1-2 Implementation
TN #:	257168
Document Title:	Western States Petroleum Association Comments - WSPA Comments on Gasoline Summer Outlook Workshop (Docket 23-SB-02)
Description:	N/A
Filer:	System
Organization:	Western States Petroleum Association
Submitter Role:	Public
Submission Date:	6/20/2024 2:58:24 PM
Docketed Date:	6/20/2024

Comment Received From: Western States Petroleum Association
Submitted On: 6/20/2024
Docket Number: 23-SB-02

WSPA Comments on Gasoline Summer Outlook Workshop (Docket 23-SB-02)

Please see attached.

Additional submitted attachment is included below.

Catherine Reheis-Boyd
President and CEO

June 20, 2024

California Energy Commission
Docket Unit, MS-4
Docket No. 23-SB-02
715 P Street
Sacramento, California 95814

Uploaded to Docket

RE: WSPA Comments on Gasoline Summer Outlook Workshop [Docket #23-SB-02]

Thank you for the opportunity to comment on the California Energy Commission (CEC) and the Division of Petroleum Market Oversight's (DPMO) June 6, 2024, Senate Bill (SB) X1-2 (2023) workshop "to discuss the summer outlook for gasoline supplies and factors impacting the market." In responding to the information presented and comments made at the workshop, including the ongoing focus on price spikes, this letter incorporates by reference our prior comment letters[1,2,3,4,5,6] and responds to the CEC and the DPMO staff presentations. The Western States Petroleum Association (WSPA) would be happy to provide further information as deemed necessary. WSPA is a non-profit trade association representing companies that import and export, explore, produce, refine, transport and market petroleum, petroleum products, natural gas, and other energy supplies in California.

To summarize the main points of this letter:

- The DPMO has shown that economists who understand the complex dynamics of the California gasoline market are not surprised by price increases that coincide with unplanned and planned maintenance activities, as this is a sign of a supply market with little slack. WSPA advises the CEC to steer clear of any good-intentioned measures to reduce price spikes that involve restrictions on when a refinery can or cannot carry out maintenance activities required for safety, as this may have unintended consequences, including but not limited to, endangering the safety of workers and nearby communities.
- The CEC has started to examine the data and patterns of California's persistent structural fuel supply barriers that affect the State's production capacity, restrict the amount of fuel that can reach the market quickly, raise the cost of delivering that fuel, and thus also lead to higher costs for California's consumers. WSPA cautions against adopting well-meaning solutions for price spikes, such as margin caps with penalties, that do not add "slack" back into the supply system.
- WSPA continues to denounce false allegations that refiners are somehow gouging California consumers, engaging in any anticompetitive activity, or are performing any kind of "market manipulation." No court or regulator has, in recent memory, identified any evidence of market manipulation by refiners.

[1] Western States Petroleum Association Comments - on SB 2 Implementation; May 30, 2023.
[2] Western States Petroleum Association Comments - on Transportation Fuels Assessment Report Workshop; September 11, 2023.
[3] Western States Petroleum Association Comments - Solomon Report California Refiners' Cost and Margin Analysis, 2000-2022; November 27, 2023.
[4] Western States Petroleum Association Comments - literature review on Energy Price Controls; November 27, 2023.
[5] Western States Petroleum Association Comments - on Nov 28 SB X1-2 Margin Cap and Penalty Workshop; December 12, 2023.
[6] Western States Petroleum Association Comments - on April 11 SB X1-2 Margin Cap and Penalty Structure Workshop; April 25, 2024.

We would first like to address some potential ongoing misunderstandings regarding "price spikes," and specifically, repeated claims from DPMO Director Tai Milder that "price spikes at the gas pump are profit spikes for the oil industry."[7] This claim is simply misleading. From a fundamental economics perspective, it ignores the reality of all the costs associated with operating a complex refinery in California. In fact, as the data now being provided to the CEC shows, the volume-weighted gasoline refining margin for California refiners turned *negative* in October, reflecting net losses on gasoline produced and sold. It is a fact that West Coast refiners face *lower margins*, *higher costs*, and *higher risks* than their counterparts in other regions – while also under increasing pressure to maintain a reliable and affordable supply of gasoline for Californians despite the many structural supply obstacles we have previously detailed.

WSPA also wants to address another source of confusion: *i.e.*, the focus on *gross* vs. *net* margins as a way to intentionally promote false and unsupported "price gouging" claims.[8] Relying solely upon gross margin data in isolation provides little insight into actual refinery profit and can be highly misleading in attempting to represent the true financial situation at California's refineries. *Gross* margins do not provide an accurate picture of *net profit* because gross margins, by definition, exclude all business costs. But, as the CEC well knows, the cost of running a business in California matters. Operating a business in California costs more than operating a business in nearly every other state. Some of these costs, such as California's very high state taxes, are significant but relatively steady and reasonably predictable from year to year. California's other environmental-related fees imposed on refining are not so steady or predictable.

Indeed, for decades California has enacted novel and increasingly ambitious environmental programs that purposefully impose substantial fees upon industry. The State assumes these fees will be passed along to consumers, intending for the fees to act as an intentional signal to consumers to change their behaviors in ways desired by the State.[9,10] These fees can vary significantly from year to year, and predictably increase when the State itself increases the stringency of the underlying environmental requirements. California certainly may choose to adopt extremely stringent environmental regulatory policies in the pursuit of aggressive energy policies, but such policy choices necessarily have the consequence of increasing the cost of producing the gasoline and diesel Californians rely on every day, and in some cases, making it more difficult to supply transportation fuel to the California market. It is a simple reality that most other states have far fewer obstacles to supplying gasoline to their consumers, and they have notably different energy policy priorities too. The critical point is that gasoline prices reflect the net impacts of all these realities. Gross margins do not.

Rather, what the CEC *should* be focused on is ensuring there is a sufficient supply in the system to meet California's ongoing – and strong – demand for gasoline in an affordable manner.

[7] See April 24, 2024, California State Legislature's Senate Rules Committee confirmation hearing of DPMO Director Tai Milder at 1:03:00 mark: https://www.senate.ca.gov/media-archive
[8] See April 24, 2024, California State Legislature's Senate Rules Committee confirmation hearing of DPMO Director Tai Milder at 1:02:18 mark: https://www.senate.ca.gov/media-archive
[9] Legislative Analyst's Office, "California's Cap-and-Trade Program: Frequently Asked Questions," October 4, 2023, at: https://www.lao.ca.gov/Publications/Report/4811
[10] CARB Low Carbon Fuel Standard, Standardized Regulatory Impact Assessment, September 8, 2023, at page SRIA – 53: https://ww2.arb.ca.gov/sites/default/files/2023-09/lcfs_sria_2023_0.pdf

Furthermore, that California's gasoline market is and has been cyclical for decades should not be a surprise to anyone. The State's own draft Transportation Fuels Assessment[11] both recognized California's long-standing structural supply issues (that make California a "fuel island") and illustrated the effect of seasonal dynamics. WSPA has explained this concept numerous times before as well.[12,13,14,15] Indeed, Figure 17 of the draft Assessment shows how CARBOB storage and production at refineries from 2006 to 2022 typically diverge every summer. Production from refineries remains elevated, but stocks draw down due to higher consumer demand in the summer. This has been a feature of Californians' fuel purchasing patterns for many decades, and neither refiners nor the State can force California consumers to purchase less transportation fuel in the summer months. The market simply dictates that available inventory supplies ***must*** be drawn down to help meet this heightened demand.

California's efforts to force a transition to lower carbon energy sources has also reduced flexibility for California consumers. Despite the State's desire to accelerate this transition, the State has yet to find affordable gasoline alternatives for the tens of millions of vehicles driven by California's citizens today. Instead, the State's efforts have focused on *decreasing* California's local in-State refining capacity. But with reductions in consumer demand not keeping up with this policy of in-State capacity reduction, the result has been the artificial constricting of in-State gasoline supplies below the level needed by California's citizens, subjecting these consumers to rising energy costs on the global crude oil market and rising energy costs associated with meeting California's increasingly ambitious environmental programs. The State cannot make up for its inability to force its desired pace of consumer demand decline for liquid transportation fuels by simply limiting local supply capacity. This does nothing to accelerate the zero emission vehicle transition, it only punishes Californians who continue to rely upon the need for more affordable and lower carbon fuel options.

To specifically address issues raised in the CEC and DPMO staff's presentations – including the underlying data set utilized, WSPA would recommend that the CEC meet individually with regulated entities under the protections afforded by the Petroleum Industry Information Reporting Act of 1980 (PIIRA). Such discussions may help clarify certain issues for the CEC staff, including the potential impact of excluding non-refiners from inventory details and any associated modeling activities.

WSPA RESPONSE TO PRESENTATION BY DPMO CHIEF ECONOMIST DR. MORENO

Refinery Maintenance Activities Must Remain Focused on Safety

WSPA repeats our serious safety concerns if the CEC were to attempt to dictate or restrict the timing of refinery turnarounds and maintenance activities based on an attempt to "time the market" in terms of fuel prices. We continue to note that the CEC does not have any expertise in operating complicated refining facilities, and does not have experience with the numerous long-standing California, Federal, and industrial regulations and standards that impose requirements

[11] "Draft Transportation Fuels Assessment," published on April 12, 2024, available at: https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=23-SB-02
[12] WSPA Comments Regarding SB X1-2 Transportation Fuels Assessment Workshop [Docket #23-SB-02] filed September 11, 2023.
[13] WSPA Comments on SB X1-2 Workshop on Maximum Gross Gasoline Refining Margin and Penalty [Docket #23-OIIP-01] filed December 12, 2023.
[14] WSPA Comments on SB X1-2 Workshop on Maximum Gross Gasoline Refining Margin and Penalty Structure [Docket #23-OIIP-01] filed on April 25, 2024.
[15] WSPA's "SB X1-2 Draft Transportation Fuels Assessment" comments filed on May 17, 2024.

and timelines on refinery operators to perform maintenance ***focused on safety***. The CEC has not yet addressed significant questions raised regarding potential liability associated with delaying maintenance mandated by safety regulations and standards, and still has not (to our knowledge) participated in ongoing discussions before the Interagency Working Group on Refinery Safety. We have repeatedly expressed our grave concerns that dictating when a refinery can or cannot perform safety-mandated maintenance activities will compromise the safety of workers and surrounding communities. If the State forces a refiner to defer otherwise required or necessary maintenance, it could create a situation where supply shocks and price volatility becomes even greater with unplanned upsets due to pushing refineries beyond the State's own mechanical integrity regulations.

Planned maintenance activities typically take years of planning and the coordination of logistics, highly skilled laborers, specialized equipment, and inventories. Turnarounds can involve one or more processing units, wide sections of the refining operations, or the entire shutdown of a refinery. Process safety and mechanical integrity are key reasons that turnarounds are done at predetermined intervals. Inspecting, replacing, and repairing units or pipelines is of the utmost importance to ensure the safe and efficient production of transportation fuels. As we have previously explained,[16,17,18] refinery maintenance and safety are so important that there are multiple Federal, State and local laws and rules governing them. That the CEC would insert itself into this carefully calculated process at any time to "time the market" based on a singular desire to lower fuel prices is deeply concerning and highly inadvisable.

California's Refining Capacity and Potential for Market Coordination

Dr. Moreno noted that California's top four fuel producers control 90% of refining capacity, which she claims presents a highly concentrated industry with "a high risk of coordination and collusion."[19] She further assumes that increasing market concentration will exacerbate price impacts, and that constrained supply and price volatility will make the market more susceptible to market manipulation. While we agree that it is not in the State's interest to drive California's few remaining refiners out of the State and further concentrate the market, the suggestion that California's refiners have somehow engaged or are engaging in manipulation is unfounded and promotes a narrative that even the State knows is false. Again, no court or regulator has, in recent memory, identified any evidence of market manipulation by refiners,[20] despite the gasoline industry being amongst the most closely scrutinized industries in the world. WSPA strenuously objects to the suggestion that refiners engage in anticompetitive activity, or the spurious allegation by some that CEC is incapable of discharging its authority to monitor and decisively address any such activity were it ever to occur. As many in the Senate Energy, Utilities and Communications Committee oversight hearing observed,[21] given the very few refiners left in California, the State should be actively working in the best interests of all Californians to help retain those that are left – operating under the strictest regulatory

[16] WSPA Comments on General Rulemaking Proceeding for Developing Regulations, Guidelines, and Policies for Implementing SB X1-2 and SB 1322, filed November 21, 2023.
[17] WSPA Comments on March 18, 2024, SB X1-2 and SB 1322 Pre-Rulemaking Workshop, filed April 1, 2024.
[18] WSPA Comments on SB X1-2 Workshop on Maximum Gross Gasoline Refining Margin and Penalty Structure filed April 25, 2024.
[19] See June 6, 2024, CEC Workshop Event Recording, Dr. Gigi Moreno at 00:55:52 mark available from "Gasoline Summer Outlook Workshop – Zoom" link: https://www.energy.ca.gov/event/workshop/2024-06/rescheduled-gasoline-summer-outlook-workshop
[20] See Joint Stipulation and Order to Stay Proceeding, *California v. Vitol Inc.*, Case No. CGC-20584456 (S.F. Super Ct. filed May 4, 2020) and *Persian Gulf Inc., v. BP West Coast Products*, 15-cv-1749-JO-AGS, Dkt. 847 (S.D. Cal. Sept. 30, 2022).
[21] See "May 7, 2024 -- Oversight Hearing -- California Energy Commission Update to the Legislature on Implementation SBX1 2 (Chapter 1, Statutes of 2023) Transportation Fuels" at: https://seuc.senate.ca.gov/content/2023-2024-informationaloversight-hearings/2023-2024-oversightinformational-hearings

environment in the world – in order to meet the ongoing energy demands of citizens in the world's third largest fuels market.

WSPA RESPONSE TO PRESENTATION BY CEC STAFF

Gasoline Inventory and CARBOB Production and Demand Trends
The CEC has astutely highlighted several chronic structural fuel supply obstacles that challenge the State's production capabilities, limit the amount of fuel that can get to market in a timely manner, increase the cost of supplying that fuel, and thereby also result in ever increasing costs being passed on to California's consumers. Respectfully, we submit that the State has yet to articulate a policy to directly address these obstacles. Instead, the State continues to advance policies that *do not promote* greater availability of transportation fuels and *discourage* capital investments in new infrastructure and incentives for more efficient internal combustion engine vehicles. It should be no surprise, then, that several refiners have left California over the past decade, and that the remaining California refiners continue to be disincentivized to invest in local in-State California transportation fuel production to most directly and efficiently meet the fuel needs of California consumers.

Indeed, the State continues to openly pursue policies that actively seek to reduce California's own local crude oil supplies – supplies long relied upon by the State and California's refineries to meet strong California consumer demand. And the data shows that these policies of reducing local capacity have indeed resulted in reduced local crude and refined fuel production, while coinciding with a less-than-anticipated reduction in consumer demand. For example, while the California Air Resource Board (CARB) assumed an approximately 3% annual local in-State crude oil production decline in its 2022 Scoping Plan Update,[22] CalGEM data shows that the actual in-State production decline rate has been three to five times faster, depending on the data set used.[23] Moreover, CARB's preferred Scoping Plan scenario generously assumes a precipitous decline in transportation sector emissions from conventional gasoline from 2021 onward,[24] assuming (while conceding uncertainty) that per-capita vehicle miles travelled will be reduced 4% below 2019 levels by 2045.[25] In contrast, the CEC has extrapolated CARBOB demand to decline only 1% from 2023 levels this year,[26] while CARBOB production from refineries would drop 5% from the 2021-2023 average given refinery conversions.[27] Clearly, CARB's exaggerated predictions of consumer demand falloff have not come to pass, leaving it to this agency to reassess a more realistic future path for California consumer demand and available local supply. At some point, both the CEC and the State will need to reconcile these differing policy priorities, assumptions, and associated ramifications for California consumers.

When California constrains its own in-State production, industry must depend more upon the global crude oil market and imported crude oils to help meet the continuing transportation fuel needs of California's citizens. This raises its own market pressures and challenges. For example, it becomes more logistically challenging to supplement diminishing in-State refining capacity because most refineries outside of California *do not* produce fuels that meet California's strict gasoline specifications. Also, it is yet unknown whether California's marine

[22] CARB's 2022 Scoping Plan Update, pg. 103, at: https://ww2.arb.ca.gov/sites/default/files/2023-04/2022-sp.pdf.
[23] California Department of Conservation, WellSTAR monthly production data reports, 2018-2023, https://www.conservation.ca.gov/calgem/Online_Data/Pages/WellSTAR-Data-Dashboard.aspx
[24] CARB's 2022 Scoping Plan Update, AB 32 GHG Inventory Sectors Modeling Data Spreadsheet
[25] CARB's 2022 Scoping Plan Update, Appendix J: Uncertainty Analysis at pg. 5.
[26] CEC Staff Workshop Presentation on "Gasoline Summer Outlook" at slide 13, "California CARBOB Demand."
[27] CEC Staff Workshop Presentation on "Gasoline Summer Outlook" at slide 16, "CA Refinery CARBOB Production."

ports and terminals will have the physical capacity to accommodate these increased imports, and as discussed below, recent amendments to CARB's Ocean-Going At-Berth Regulation, taking effect starting in 2025, will make it difficult for these ports and terminals to legally host adequate tanker visits even if they do have the physical capacity to do so.

California Gasoline Marine Import Trends

WSPA has previously explained[28,29,30,31] why supplying California's fuels market is so difficult. It is true that the West Coast – particularly California – is increasingly reliant on gasoline imports. CARB's 2022 Scoping Plan Update acknowledged this, noting that "[i]f California's finished fuel demand is not met by continued refining activity in California, the state would need to import finished fuels to meet the ongoing demand. This would likely result in a two- to five-fold increase in the number of finished fuel ship deliveries to marine terminals."[32] This is especially true when such imports are necessary to supplement local transportation fuel supply during both planned and unplanned refinery maintenance events. As such, when refiners have advance awareness of a fuel supply disruption, they can mitigate consumer impacts. For example, when refiners schedule maintenance activities well in advance, they can also plan for bringing in more finished gasoline imports and/or gasoline components from other refineries.

However, continuing these practices will be extremely challenging beginning in 2025 due to aggressive new restrictions adopted by CARB that will apply to all tanker vessels calling on California ports and terminals. CARB's 2020 amendments to its Ocean-Going At-Berth Regulation (17 Cal. Code Regs. §§ 93130-93130.22) will soon require all tankers either to use shore power when transferring cargo at berth (despite the fact that the current tanker fleet is not designed to utilize such power), or to utilize emissions control technology that has not yet been tested, approved, or implemented in practice for tankers. As a result, many existing tankers likely will not be able to meet the Regulation's requirements by the first compliance deadline of January 1, 2025. The overall result will be to limit the number of calls and/or the availability of tankers that can legally call on California's ports beginning in 2025 – the very same facilities that will need to absorb the delivery of increasing imports that will be necessary due to artificially constrained in-State production and refining policies.

That there is *already* rising pressure to increase fuel imports is clear. The CEC's own presentation demonstrates a marked increase in marine imports in the past decade: *i.e.*, a 61% increase in the 2021-2023 average barrels per day imported over the 2014-2019 period, and an assumed 23% increase in 2024 from the 2021-2023 average.[33] Thus, there is little dispute that increased imports will be a critical component of meeting Californians' fuel demand going forward. Unfortunately, with less than six months remaining before the Ocean-Going At-Berth Regulation amendments take effect for the major Southern California ports, we have no guidance on how the State plans to accommodate this import trend while enforcing the strict limitations set forth in that Regulation.

---

[28] WSPA Comments Regarding SB X1-2 Transportation Fuels Assessment Workshop [Docket #23-SB-02] filed on Sept. 11, 2023.
[29] WSPA Comments on SB X1-2 Workshop on Maximum Gross Gasoline Refining Margin and Penalty [Docket #23-OIIP-01] filed December 12, 2023.
[30] WSPA Comments on SB X1-2 Workshop on Maximum Gross Gasoline Refining Margin and Penalty Structure [Docket #23-OIIP-01] filed April 25, 2024.
[31] WSPA Comments on SB X1-2 Draft Transportation Fuels Assessment filed on May 17, 2024.
[32] CARB's 2022 Scoping Plan Update, at pg. 107.
[33] CEC Staff Workshop Presentation on "Gasoline Summer Outlook" at slides 17-19, "California Gasoline Marine Imports."

WSPA again notes that these significant market and policy dynamics, which will constrain California's fuel supply, *are already in motion*.

PRICE SPIKE MITIGATION STRATEGIES

The CEC's workshop notice indicated that, amongst the topics that could be discussed, were "price spike mitigation strategies." WSPA recommends that the CEC evaluate the following:

- **Stabilize In-State Gasoline Supplies.** For the reasons identified above, WSPA continues to urge the CEC to work on pathways to increase and stabilize California's valuable fuel supplies. This includes support for local crude oil production that can easily be delivered to California's refineries for refining into gasoline and other transportation fuel products.
- **Do Not Impose a Margin Cap and Penalty.** Inherent in the passage of SB X1-2, the State Legislature directed the CEC that, before considering the adoption of any maximum gasoline margin cap or penalty, it must first gather real-world evidence on whether a cap on refinery margins could have unintended consequences that would harm California consumers. The law explicitly requires that the CEC "***shall not*** set a maximum gross gasoline refining margin or accompanying penalty...***unless*** it finds that the likely benefits to consumers outweigh the potential costs," considering factors such as whether action would lead to a greater supply and demand imbalance in California's fuels market or lead to higher pump prices."[34] As such, the Legislature's expectation of the CEC is clear: evaluate the facts, not the politics, in promoting solutions that benefit Californians rather than hurting them. Implementing a margin cap will not solve California's supply issues or change market behaviors. Allowing periodic adjustment of such a maximum margin would not improve things, but would only introduce an element of uncertainty which could severely discourage capital investment and exacerbate future supply issues. As previously mentioned, investment decisions are driven by a reasonable expectation of future profits. Instead, we urge the Commission to take a proactive approach to finally resolving the State's long-standing supply issues as previously recognized by the CEC. By working with in-State refiners and supporting them through the development of reliable infrastructure, the CEC can help increase production of transportation fuels to meet California's increasing fuel demands, thereby attacking the root causes of market volatility and benefitting California consumers over the long run.
- **Incentivize Ongoing Infrastructure Investments.** As discussed above, *it is manifestly in the interest of all Californians to preserve and foster California's remaining refining capacity.* Local supply of transportation fuel avoids the significant costs, market volatility, and risks that come with reliance on fuel supplies from out-of-State and overseas. More importantly for the environment and health, local refining and supply of transportation fuels allows the State to avoid the impacts of additional harmful pollution and carbon emissions that would result from having to transport most or all of California's refined fuel supplies from elsewhere. The CEC can take actions to minimize market volatility by identifying policy changes to support (not hinder) critical investments in the maintenance and build-out of necessary California infrastructure to support in-State fuel demand. Also, the CEC can help promote more certain and streamlined local supply of transportation fuel by evaluating barriers to local fuel supply, and by identifying and addressing regulatory obstacles that prevent or impede needed maintenance activities and/or prevent challenging infrastructure from being repurposed.
- **The CEC Must Address Concerns with the Coming Restrictions on Import That Will be Caused by the Ocean-Going At-Berth Regulation.** As discussed above, WSPA strongly

[34] PRC Section 25355.5(l) (emphasis added).

urges the CEC to engage CARB in discussions about how the Ocean-Going At-Berth Regulation amendments may be modified to avoid the imposition of harsh restrictions on tanker visits at California ports starting in 2025. Tanker operators and ports have attempted to address these issues with CARB in advance of the January 1, 2025, deadline, and have pointed out that no viable tanker shore power or emissions capture technology alternative exists today, six months before the regulatory implementation deadline. To date, CARB has not been willing to even discuss considering regulatory relief for tankers or tanker ports or terminals, and has been unwilling to concede that the technologies required by the Regulation amendments will not be implementable by the California tanker fleet by January 1, 2025. If this issue is not addressed in advance of the 2025 amendments' effective date, tankers will be left with no other practical choice but to limit visits to California ports and terminals, and we expect that this will only exacerbate the State's current fuel supply problems by limiting the State's ability to use imports to close the supply gap.

- **Support Availability of Lower-Carbon Fuels.** WSPA has been actively engaged in CARB's pending rulemaking to strengthen the Low Carbon Fuel Standard (LCFS). WSPA continues to support CARB's decision *not* to include arbitrary caps on crop-based feedstocks or fuels derived from crop-based feedstocks as doing so would limit proven emissions reductions strategies that are working *today*. WSPA has, however, expressed concern that accelerating programmatic benchmarks even further – while meritorious in intent – will likely impact California's gasoline prices. The LCFS program currently adds approximately $0.10 per gallon[35] for California consumers, which can disproportionately burden low- and moderate-income Californians. As such, WSPA has urged CARB to revise its potential program amendments to create a more cost-effective and less burdensome regulatory program that protects a diverse transportation energy portfolio. An aggressive step-down in program stringency in 2025 could place upward pressure on California's gasoline prices.
- **Support Affordability of Lower-Carbon Fuels.** WSPA has also expressed concerns with CARB's forthcoming amendments to the Cap-and-Trade program that are also likely to have an impact on transportation fuel supply and costs. According to the CEC, Cap-and-Trade adds over three times as much ($0.32 - $0.33) to the cost of California's gasoline as LCFS does. Proposed amendments could exacerbate existing impacts by further compromising the supply reliability of critical transportation fuels, leading to increased energy costs and possibly further burdening California drivers. WSPA has reiterated that programmatic updates must be consistent with Assembly Bill (AB) 32 (2006), SB 32 (2016), and AB 398 (2017). AB 32 and SB 32 directed CARB to adopt regulations to ensure that the emissions reductions are technologically feasible and *cost-effective* while minimizing leakage potential. AB 398 included important cost containment measures and that CARB consider any adverse business impacts. To date, analysis has failed to appropriately quantify and assess potential consumer impacts or leakage risks under various proposed update scenarios. Despite prior State analyses quantifying potential impacts,[36,37,38] the 2024 Standardized Regulatory Impact Assessment instead notes that, "Predicting how allowance price changes

[35] See the CEC's monthly "Refiner Margin Data" at: https://www.energy.ca.gov/data-reports/energy-almanac/californias-petroleum-market/california-oil-refinery-cost-disclosure

[36] 2010 Cap-and-Trade Appendix N. Economic Analysis, see Table N-3 at https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2010/capandtrade10/capv4appn.pdf

[37] 2016 Standardized Regulatory Impact Assessment (SRIA) Proposed Amendments to the Cap-and-Trade Regulation, see Table 3 at https://dof.ca.gov/wp-content/uploads/sites/352/Forecasting/Economics/Documents/ARB_Cap-and-Trade_SRIA_2016_Final.pdf

[38] 2018 Standardized Regulatory Impact Assessment, Proposed Amendments to the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms Regulation, June 2018, see page 42 at https://dof.ca.gov/wp-content/uploads/sites/352/Forecasting/Economics/Documents/Cap-Trade_SRIA_ARB_6-2018.pdf

impact these complex pricing strategies and the per gallon gasoline and diesel prices paid at the pump in the future by consumers is beyond the scope of this work."[39] An aggressive ramp-down in the cap decline rate and industrial allowance allocations beginning in 2025 could place upward pressure on California's gasoline prices.

CONCLUSION

We again emphasize here that imposing a margin cap and penalty will only exacerbate these challenges and harm California's consumers. Margin caps, by design, discourage the making of "too much" profit, thereby discouraging the production that might result in that profit, and inducing market scarcity. We urge the CEC to work with industry to find solutions that address the root causes of high gasoline prices, rather than scapegoating refiners that, as the CEC's own expert consultants have acknowledged, are running as hard as they can to serve the needs of this State.[40] WSPA continues to request a balanced conversation with how best to manage these opportunities for affordable, reliable, and lower carbon fuels.

WSPA appreciates the opportunity to provide our comments on these issues of critical importance not only to us, but to all California citizens who rely on affordable and reliable sources of transportation fuel every single day. These comments are based on WSPA's review of the materials and statements at the workshop, and we reserve the right to amend these comments or add to the docket as necessary to reflect additional materials or changes in the CEC's decisions.

Please do not hesitate to contact me with any additional questions.

Sincerely,

Catherine Reheis-Boyd
President and CEO

[39] CARB Regulation for the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms 2024 Amendments, Standardized Regulatory Impact Assessment, dated April 9, 2024, at page 54: https://dof.ca.gov/wp-content/uploads/sites/352/2024/04/nc-Cap-and-Trade_SRIA2024.pdf

[40] See April 11, 2024, CEC Workshop Event Recording, Dave Hackett, upon questioning, 02:28:12 mark; Tom O'Connor, during questioning at 02:28:41 and 02:28:56 marks: https://www.energy.ca.gov/event/workshop/2024-04/workshop-sb-x1-2-maximum-gross-gasoline-refining-margin-and-penalty