



California Independent Oil Marketers Association
3831 N. Freeway Blvd. #130 • Sacramento, CA 95834
(916) 646-5999 • (916) 646-5985-fax
www.cioma.com

September 2, 2009

California Energy Commission
Dockets Office, MS-4
Re. Docket No. 09-IEP-1K
1516 Ninth Street
Sacramento, CA 95814-5512

DOCKET

09-IEP-1K

DATE 9/02/2009

RECD. 9/02/2009

Subject: 09 IEPR – Transportation Energy Forecasts; CIOMA Comments on IERP Biofuels Discussion

To Whom It May Concern:

The comments included in this letter are not intended as a comprehensive analysis and commentary on the IERP energy forecasts. However, a couple of items garnered our attention as we were leafing through the document. These issues are discussed at greater length, below.

Page 74,

“However, the California Division of Measurement Standards (DMS) should expand their posted retail price standards to include some form of energy-equivalent or fuel economy-equivalent pricing information at all retail stations offering E85 in California.”

We categorically disagree with yet another pump display requirement. This recommendation is vague and possibly leads to a hugely expensive requirement. If the recommendation is that price should be adjusted to create an energy-equivalent posting, all state fuel dispensers (well in excess of 13,000) would have to be fitted with new, not-invented, equipment that would read the energy density of the fuel and make a price adjustment on the pump display. Since no one has envisioned such a technology, it cannot be estimated what the cost would be. But, it would make the recent CARB Enhanced Vapor Recovery/ISD requirements pale in comparison.

If this recommendation is for some type of chart displaying the many variables that come into play regarding energy density of fuel, we have problems. For example, energy density can change depending on the refiner’s way of making the fuel. Or, fuel energy density can change based upon the summer or winter formulation. Additives can change energy density. Biofuel mixtures can change energy density. Temperature can change energy density. A chart showing all such variables would be confusing, even to a petroleum engineer, and would have limited value as the retailer and customer have no idea how all these variables interact at the time of dispensing.

If this recommendation is supposed to override the vigorous attempts of the ethanol industry to hide that there is a mileage hit when using ethanol, we suggest the Energy Commission take that battle face-on, not pass it off to someone else.

If the Energy Commission is concerned about consumer information we suggest that they put a consumer inquiry program together; possibly a 1-800 number where motorists could inquire about their energy-equivalent questions. Do not recommend posting useless information in a space already constrained with numerous other essential labeling requirements.

Omission

It was interesting to find no mention of the “ready-for-market” fuel discussion in the report. CIOMA has commented on this issue to the Air Resources Board in their Low Carbon Fuel Standards (LCFS) rule-making, and provided copies to the Energy Commission for their consideration. In pertinent part, here is what we pointed out to CARB, and will point out to you, again:

This regulation proposes to prioritize fuel types and specific fuels for distribution into the stream of commerce. As such, there need to be fail-safe procedures in the regulation assuring these fuel types and fuels are certified for use, not just their carbon intensity. Without this key regulatory provision fuels may appear as favorably incented due to their carbon intensity, but may not be available to fuel consumers. This is just another regulatory train wreck in the making.

This is not hypothesis. The state currently has a problem with biodiesel. While many in state leadership positions have promoted the use of biodiesel, a flaw in the state’s legal and regulatory structure is prohibiting its storage in underground storage tanks, above B-5 levels. This has taken a significant portion of biodiesel out of the stream of commerce. As new fuel types and fuels line up to enter into the fuel mix, others such problems are likely, if not predictably, to occur.

A very simple adjustment to the regulation is needed. The regulation needs to contain a provision that assures that all important checkpoints have been addressed before a low carbon fuel or fuel-blend is certified. This would include:

- *Appropriate certifications and allowances have been finalized which address blending, pipeline transportation, storage (above ground, under ground and in trucks) and dispensing of the fuel.*
- *Appropriate public notice and signage requirements have been addressed.*
- *Insurance companies are willing and able to insure marketer and fuel handling liability.*
- *The fuel will not cause harm into any vehicle or device the fuel might legally be used to power.*

Without such a simple checklist your regulation is fatally flawed and will create another enforcement fiasco similar to, if not worse than, the recent enhanced vapor recovery requirements.

CARB has not adjusted the LCFS regulation to include “ready-for-market” requirements. As the IERP correctly notes the diversity of fuel types will increase sharply as time marches on. Not having a simple check list approach to determine if a fuel is “ready for prime time” creates many unintended consequences, makes government look more stupid that it already appears, and creates significant liability issues for fuel distributors and retailers. Here is a

chance for the Energy Commission to provide leadership and common sense into what is becoming a chaotic set of fuel policies.

Sincerely,

A handwritten signature in black ink, appearing to read "Jay McKeeman". The signature is fluid and cursive, with a large initial "J" and "M".

Jay McKeeman, Vice President, Government Relations & Communications

cc: Gordon Schremp, Energy Commission