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Industries Press ARB To Slow Plan Hiking Fuels' GHG Levels Under LCFS

The ethanol, biodiesel, natural gas and oil industries are urging state air board officials to give companies more data behind — and time to review — their recently released proposal to significantly increase estimated greenhouse gas (GHG) emission levels for numerous alternative and base fuels regulated under the state's low-carbon fuel standard (LCFS).

In recently submitted written comments, all of the industries are expressing frustration and criticism that officials have still not released data behind the recent changes and updates to the GHG-estimation model the board used to produce the new regulatory proposal hiking the "carbon intensity" values for the fuels.

And most of the industries claim they have already discovered errors in the board's new process for calculating the
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CEC Eyes Halving Major Desert Solar Project To Reduce Adverse Impacts

California Energy Commission (CEC) regulators are proposing that a controversial planned solar thermal power project in the southeastern desert be halved in size to lessen its adverse impacts on birds and the environment, which experts say sets a precedent for how the state will site similar renewable power projects in the future.

The state's latest "proposed decision" on the solar project follows a proposal late last year by regulators to reject the facility based on "unmitigatable" impacts to birds and sensitive areas.

Environmentalists who oppose the project outright — regardless of its size — plan to urge CEC to reject the new proposed decision certifying the project at half its originally proposed size. CEC is scheduled to vote on the project at an Oct. 29 meeting.

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Industry Warnings Prompt ARB To Delay Change In Forest GHG Offset Rule

The state air board has delayed modifications to its greenhouse gas (GHG) offset-project protocol for U.S. forests in response to complaints by project developers and credit-trading companies, though board officials are expressing skepticism that the changes could have severe impacts on the credit market as industry officials claim.

In addition, board officials are defending how they developed the proposed protocol modifications in response to industry charges that they were given scant information and little time to study and review the changes.

At issue are proposed "quantification methodology" changes to the California Air Resources Board's (ARB) protocol for U.S. Forests GHG-offset projects, which was first adopted in 2011. The protocol details rules and standards developers of GHG offset projects must meet to qualify their projects for credit under the state's cap-and-trade program.

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Brown Signs Bill Targeting Pipeline Methane Leaks Seen As Broader Model

Gov. Jerry Brown (D) this week signed a bill requiring utilities to seek out and fix methane leaks from natural gas pipelines, a measure that environmentalists and labor union leaders are hailing as a major milestone to cut greenhouse gas (GHG) emissions from the sector while providing a model for other states.

An environmentalist says that the new law is groundbreaking for a number of reasons, including that "California is going to be really the first state in the nation to look at the leaks from the distribution system, not just because of safety [concerns] but because of their environmental effect."

The legislation, SB 1371 (Sen. Mark Leno, D-San Francisco), requires the California Public Utilities Commission (CPUC) to open a proceeding to adopt rules and procedures that minimize natural gas leaks from gas pipelines, with the

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goal of reducing GHG emissions.

The CPUC rulemaking must require Pacific Gas & Electric Co. (PG&E) and Southern California Gas Co. (SoCalGas) — the investor-owned utilities subject to the measure — to file reports that include a list of methane leaks that are being monitored or repaired, an estimate of gas loss due to leaks, a summary of leak management practices and a list of methane leaks in 2013, according to the legislation.

CPUC is required by the new law to collaborate on the rules and procedures with the California Air Resources Board (ARB). The rules apply to intrastate transmission and distribution natural gas pipelines.

The rules must provide for the most technologically feasible and cost-effective avoidance, reduction and repair of leaks “within a reasonable time after discovery,” states a Senate floor analysis of SB 1371.

The environmentalist says this is the direction the nation needs to take to significantly reduce methane emissions, “so California is acting as a trendsetter again on environmental protection.” SB 1371 can serve to “set the bar for other states and where the U.S. needs to go as a whole.”

In addition, the source says the new law complements an evolving regulatory proposal by ARB to regulate “up-stream” methane emissions from oil and natural gas operations, such as production, processing and storage facilities and equipment (*Inside Cal/EPA*, Aug. 29).

“So when you look at this together, it starts to look like the build-out of a comprehensive strategy for California to take on methane pollution from the whole cycle of oil and gas” production and distribution, the source says.

The environmentalist says that SB 1371 may also help the Obama administration in its effort to cut methane emissions through a national strategy. “This is just one portion, but the [new law] sets the standard for where the industry can go and shows the Obama administration a way forward on this particular segment,” the source adds.

The Blue Green Alliance, a coalition of U.S. environmental and labor union organizations, also praised Brown’s signing of SB 1371 this week.

“Utility workers are proud of the broad public interest coalition of unions, environmental groups and consumer and community interests that have come together to support this measure,” said Robert Hoffman, president of Utility Workers Union of America Local 132, the sponsor of the bill, in a Sept. 22 press release. “Being proactive in repairing and upgrading these vital pipes will benefit the environment and public safety while creating and sustaining good jobs for workers throughout the state.”

The organization says the new law will also help eliminate waste of a “critical energy resource,” the release states. “So-called ‘fugitive’ emissions of methane equate to millions of dollars of lost gas that Californians end up paying for in their monthly utility bills.”

California is the nation’s second largest consumer of natural gas, with over 100,000 miles of pipes and other equipment delivering natural gas to customers across the state, the group adds.

PG&E and SoCalGas did not oppose SB 1371 while it advanced in the state Legislature. Sources say this is likely because the utilities are already keenly interested in repairing pipeline leaks due to safety concerns, believe they can comply with the requirements of the new law without too much trouble, and because they likely will be allowed to hike rates on their customers to pay for it.

Background Documents For This Issue

Subscribers to InsideEPA.com have access to hundreds of documents, as well as a searchable archive of back issues of *Inside Cal/EPA*. The following are some of the documents available from this issue of *Inside Cal/EPA*. For a full list of documents, go to the latest issue of *Inside Cal/EPA* on InsideEPA.com. For more information about InsideEPA.com, call 1-800-424-9068.

Documents available from this issue of *Inside Cal/EPA*:

- 9th Circuit Restricts California From Regulating Radioactive Cleanup (2482276)
- California Legislative Committee Probes Desalination Impacts (2482397)
- California Recommends Solar Project Be Halved, In Precedential Decision (2482399)
- California, Federal Agencies Release Desert Renewable Power Siting Plan (2482398)
- Farmers Sue California Oil Companies Over Disposal Injection Wells (2482396)
- Fuel Producers Urge California To Slow Plan Hiking GHG Levels Under LCFS (2482395)

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Desert Renewable Power Siting Plan Faces Broad Scrutiny, Likely Lawsuits

A revised draft plan released this week by state and federal agencies to expedite and manage how large-scale solar and wind power projects are sited and permitted in California's southeastern desert region is being closely scrutinized by a broad range of stakeholder groups, some of which may eventually legally challenge the plan, sources say.

The wind power industry, for example, is attacking the plan as severely limiting its opportunities for future development in the region while providing solar with an unfair advantage. Wind power representatives have said in the past that they may challenge the plan in court once it is finalized.

At the same time, some environmentalists and land conservationists fear the plan could fail to adequately mitigate significant impacts to threatened species and the environment, and may contain loopholes allowing developers to build projects on areas designated as off-limits.

At issue is the draft Desert Renewable Energy Conservation Plan (DRECP) and accompanying environmental impact analyses released Sept. 23 by California Energy Commission (CEC), California Department of Fish & Game, the U.S. Bureau of Land Management, and the U.S. Fish & Wildlife Service (FWS).

The DRECP maps out preferred areas to develop renewable power in the desert regions and adjacent lands of seven California counties — Imperial, Inyo, Kern, Los Angeles, Riverside, San Bernardino and San Diego. The plan also includes mitigation and variance areas.

The plan's alternatives all aim to establish approximately 20,000 megawatts (MW) of renewable power development in the area. Depending on the various alternatives proposed in the plan, solar power would make up roughly 12,000-14,000 MW and wind would fall in the 4,000-6,000 MW range.

The plan is considered critical for developing renewable power in California while protecting the environment, and outlines how to streamline wind, solar and geothermal power permitting. It is also designed to help utilities meet the state's renewable portfolio standard, which requires that 33 percent of the electricity supplied to customers come from renewable sources by the end of 2020.

Officials also released with the plan an environmental impact report (EIR)/environmental impact statement (EIS), which aims to ensure compliance with the California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA), among other state and federal laws that require agencies to assess the potential adverse environmental impacts of their actions, and to take steps to mitigate any such impacts.

The EIR/EIS covers a "preferred alternative" plan and a "range of alternatives" that are included in the revised draft plan, sources say. The release of the documents triggered a 90-day public comment period, which ends Jan. 9, 2015. *An executive summary of the plan is available on InsideEPA.com. See page 2 for details. (Doc. ID: 2482398)*

The California Wind Energy Association (CalWEA) criticized the plan in a Sept. 23 press release, charging that the five proposed alternatives "could end most wind energy development in California," according to Nancy Rader, executive director of the group.

CalWEA argues that the plan includes only a small fraction of the best wind resources in the desert region, providing insufficient area to find enough workable project sites to meet even a low target among the alternatives. Much of the state's best remaining wind resources reside on federal land managed by BLM, "where only three wind projects have been permitted over the past four years on the more than 15 million acres that BLM manages in California," the group claims.

"Unfortunately, the draft plan fails to properly evaluate the limited habitat impacts of wind energy," Rader adds in the press release. "The process was never able to overcome its scientific shortcomings when it came to wind energy's interaction with the desert environment. For landscape-level planning to succeed, wind energy's compatibility with species, habitat and the environment will need to be more properly studied and understood."

Wind power industry representatives plan to strongly urge the state and federal agencies to make dramatic changes to the plan before it is finalized.

An attorney closely following the process says the state and federal agencies could face legal challenges once the plan is finalized, focusing on the science being used — or not being used — to establish the various locations for preferred or restricted development.

For example, challengers could argue that some of the scientific assumptions underlying the plan specifics are incorrect, especially with regard to "under-inclusion" or "over-inclusion" of areas that are appropriate for certain wind or solar development, the source says. Particular interests could argue that the government's modeling of certain tracts of land in the region are outdated or otherwise flawed and that more recent or superior modeling conducted by other experts shows something considerably different, in terms of potential development opportunities, the attorney says.

The wind industry, for instance, could argue that the DRECP features an over-inclusive conservation design that does not incorporate basic facts, such as that wind has a very small footprint per acre relative to solar, the source says. The government agencies may not be as knowledgeable on the latest resource maps for certain areas as the industry, the source adds. These types of legal challenges could be made under various state and federal laws, such as CEQA, NEPA, the Endangered Species Act, the Natural Community Conservation Plan Act and the Federal Land Policy and

Management Act, according to the source.

Several representatives of the solar energy industry did not return requests for comment on the DRECP.

Meanwhile, some environmentalists and conservationists plan to scrutinize the plan based on concerns that it could fail to ensure projects adequately protect threatened and endangered species, including the desert tortoise.

Glenn Stewart, a professor of zoology and environmental science at California State Polytechnic University-Pomona, said during a Sept. 22 press conference call organized by environmental groups that large-scale solar projects that have been built recently in the desert have failed to protect species such as the desert tortoise.

He said it is vital that the DRECP incorporate recommendations made by a panel of independent science advisors, which identified areas where projects “should or should not be located” based on a number of factors. “From the perspective of the Desert Tortoise Council, we’ll be looking to see how well these recommendations have been followed,” Stewart said.

Frank Davis, director of the National Center for Ecological Analysis and Synthesis at the University of California-Santa Barbara, said during the call that he will be “asking a bunch of questions” about the plan, including how habitat loss and degradation is accounted for and mitigated, as well as how cumulative effects from multiple projects are estimated and handled. In addition, Davis plans to determine whether the plan addresses “the potentially highly disruptive impacts of ongoing climate change and other land-use changes” in the western Mojave Desert, he said.

Groups Fear LCFS Changes’ Impact On Markets . . . begins on page one

carbon intensity scores.

For example, in a Sept. 15 letter, the Western States Petroleum Association (WSPA) called on the board to slow its rulemaking schedule to potentially adopt the new carbon intensity scores in January, saying this is not nearly enough time to ensure proper “peer review and model validation” and to analyze potential implications for compliance. *Relevant documents are available on InsideEPA.com. See page 2 for details. (Doc. ID: 2482395).*

The state’s LCFS requires fuel providers to reduce the carbon intensity of gasoline and diesel 10 percent by the end of 2020, compared with a 2010 baseline. Companies can comply by blending cleaner fuels, such as ethanol and biodiesel, into gasoline and diesel and by purchasing credits generated by utilities and other companies that provide natural gas, electricity or hydrogen for transportation purposes.

The California Air Resources Board (ARB) is proposing to update the carbon intensity levels of fuels subject to the LCFS, based on an updated version of its “CA-GREET” emissions estimation model. The new “CA-GREET 2.0” model is based on the 2013 GREET 1 model developed by Argonne National Laboratory in Illinois.

The proposed new carbon intensity levels — unveiled at an ARB public meeting last month — are expected to be officially proposed later this year and possibly adopted in January along with a number of other amendments to the LCFS. Once adopted, the increased carbon intensity values are likely to drive increased use of lower-carbon fuels.

The changes likely would not take effect until late 2015; fuel providers would face a future “sunset date” on the use of the existing levels as part of the regulatory changes (*Inside Cal/EPA*, Aug. 29).

But in written comments submitted to ARB last week, the industry groups and fuel production companies called on board staff to slow the process for updating fuels’ carbon intensity scores and allow considerably more time for an analysis of the modeling data, including assumptions.

“The dramatic increases in carbon intensity values for biodiesel feedstocks indicate to us that there are additional errors either in the Argonne data or the ARB adaptation of that data,” states Don Scott, director of sustainability for the National Biodiesel Board, in a Sept. 15 letter to ARB staff. “We urge ARB to release the full modeling data.”

Various types of biodiesel would receive higher carbon intensity scores under ARB’s preliminary estimates, including those made from soybeans, tallow, used cooking oil, canola, and corn oil associated with “wet distillers grains plus solubles.”

For example, the new estimates would set a score of 41.72 grams of carbon dioxide (CO₂)-equivalent emissions per megajoule (g/MJ) for canola-based biodiesel, up from the current 31.98 g/MJ score under the regulation.

The new model also shows a substantial rise in GHG emissions from natural gas, including compressed natural gas (CNG) and liquefied natural gas (LNG) from conventional North American fossil sources as well as from landfills.

For example, ARB is preliminarily estimating that the carbon intensity of CNG from landfills is 33.52 g/MJ, nearly triple the current score under the LCFS of 11.26 for the same fuel. For LNG from landfills, ARB’s new estimate is 54.5 g/MJ, up from the current 26.31 g/MJ score.

And for CNG from North American fossil sources, ARB is preliminarily proposing a 78.37 g/MJ score; the current score under the regulation for the same gas is 68.01 g/MJ. For LNG from North American fossil sources, ARB estimates the accurate score is 96.92 g/MJ instead of the current 83.13 g/MJ.

The Coalition for Renewable Natural Gas, in a Sept. 15 comment letter, charges that the ARB proposal will result in

less accurate modeling, a weakened LCFS program, and will cause “significant disruption” to the LCFS credit market. This is due to new assumptions ARB staff is proposing to use about how much methane leaks from infrastructure, such as pipelines.

“Specifically, the newly proposed model includes a doubling of the overall system methane leakage rate, a 2 percent methane leakage factor attributed to landfill gas extraction and processing, and an increase in pipeline energy intensity . . . by a factor of [four times] greater than seen in the prior GREET model,” officials with the coalition state in the letter.

ARB staff should delay any action to advance its proposal until the completion of ongoing relevant research, the industry group argues, noting that ARB earlier this month at a technology assessment workshop noted there are a number of key methane-leakage studies pending.

“The bottom line is that additional, pertinent information is coming soon and we should not act precipitously by adopting changes based on incomplete data and flawed assumptions,” the natural gas industry group adds.

The proposed changes to the carbon intensity levels also have major implications for the ethanol industry. ARB staff is proposing to significantly increase — by roughly 25-50 percent — the score for sugarcane ethanol imported from Brazil, depending on how it is processed and transported. This is based on higher estimates of GHGs associated with transporting the ethanol within Brazil as well as emissions associated with fertilizers, harvesting and the energy used to process the product.

The Brazilian Sugarcane Industry Association, known as UNICA, is urging ARB staff to “make all assumptions used in CA-GREET 2.0 available for the stakeholders,” according to the group’s Sept. 15 comment letter. UNICA is also challenging many basic assumption changes made by ARB staff in its proposal, having to do with transport, nitrous oxide emissions from fertilizer and the amount of energy used in sugarcane ethanol production.

Conventional fuel producers are also concerned because ARB staff’s proposal would increase the carbon intensity scores for base fuels, including ultra-low-sulfur diesel and California reformulated gasoline. For the clean diesel, staff is proposing to increase the score from 98.01 g/MJ to 102.55 g/MJ.

“ARB staff did not provide any detail during the [Aug. 22] workshop as to the extent of the impact these revisions could have on investments and compliance plans,” WSPA says in its comment letter. “It appears clear this proposed action by staff will add to the uncertainty currently being experienced due to the ongoing annual program revisions. The proposed carbon intensity value changes may significantly impact credit/deficit generation assumptions that were made based on current numbers. If adopted, these proposed revisions may have significant impacts and unforeseen consequences — even for current investments.”

More broadly, WSPA asserts that stakeholders have repeatedly raised concerns that an “ever-evolving LCFS program that does not remain static for significant periods of time may have the effect of creating unknown consequences including market volatility,” the letter says. “Making revisions simply because the program is being reauthorized and it’s an opportunity to make changes, necessitates carefully thinking through the possible consequences of making changes in this area of the regulation.”

An ARB spokesman did not respond to a request for comment by press time.