Patrick G. Kelly
Senior Policy Advisor

Fuels Issues, Downstream

200 Massachusetts Avenue, NW
Washington, DC 20001
USA
Telephone 202-682-8192
Fax 202-682-8051
Email kellyp@api.org
www.api.org

November 5, 2019

Vicki Arroyo
Executive Director
Georgetown Climate Center
600 New Jersey Avenue, NW
Washington, DC 20001-2075

Re: Transportation and Climate Initiative – Framework for a Draft Regional Policy Proposal

The American Petroleum Institute (API) is the national trade association that represents all aspects of America's oil and natural gas industry and our 625 member companies provide most of our Nation's energy. API member companies have experience in complying with GHG reduction programs in the U.S. and internationally and our association wishes to provide constructive input as the Transportation and Climate Initiative (TCI) program develops.

API member companies continue to review the Framework for a Draft Regional Policy Proposal released on October 1st and such review may significantly impact our overall position on the framework. Currently, we have not taken a position on the effort and need more specific information to develop one. We appreciate the additional information provided in the framework document, however, there remain few specific details on the framework of the program and we urge you to develop and share more detailed program specifics that will enable stakeholders to fully evaluate the proposal and provide relevant feedback.

Affected Fuels and Emissions

The program intends to apply an obligation to "the fossil component of finished motor gasoline and on-road diesel." Ethanol and biodiesel are typically blended at the terminal rack, and other drop-in biofuels such as renewable diesel may be added farther upstream in the distribution system. It is not clear how covered volumes will be determined and if (or how) biofuels will need to be backed out of the calculation. The potential inclusion of biofuels affects other program elements and a decision on the treatment of biofuels is needed for stakeholders to provide adequate feedback.

Regulated Entities

API does not support using the EIA defined "Prime Suppliers" as the appropriate regulated entities, and we recommend that TCI states leverage existing regulatory programs established for road tax collection by placing the obligation at the point of taxation.

The primary goal in setting the point of compliance is to ensure every gallon of covered fuel is counted and a compliance obligation is equally applied among market competitors. We believe this is achieved by selecting an unambiguous point in the distribution chain. The prime supplier option will create confusion because sales to other prime suppliers are excluded from the reported volume. The practical effect is that two identical transactions would be treated differently depending on the prime supplier status of the receiving party. In addition to potential missing or double counted volumes, the prime supplier option creates unintended consequences in the wholesale distribution system. For example, not knowing which party will incur an obligation until a transaction is settled creates challenges in valuing products that are offered to the marketplace.

A secondary goal in setting the point of compliance is to minimize complexity for both regulators and the regulated community. Minimizing the number of obligated parties does not inherently result in the lowest oversight obligation from participating states. Using the volumes determined at the point of tax collection would help to minimize complexity and increase data validation by leveraging the resources already dedicated to the collection of road taxes. Regulators would benefit by minimizing the new rescores necessary to oversee the program. Obligated parties similarly benefit by using data to track volumes that is more readily available and verifiable. And using this point in the distribution system would help ensure uniformity across the region, which also reduces complexity.

Program Flexibility

API is generally supportive of program flexibilities to ensure that "relief valves" are sufficient to prevent excessive credit price increases. As more information becomes available, we would like to provide input on how these mechanisms would work.

Program Investments

The program framework does not specify how proceeds from the program would be spent, and how potential projects would be evaluated. Investments that provide tangible GHG emission benefits and are effective in reducing the demand for compliance credits will help to minimize the cost of the program on consumers.

We look forward to learning more about the TCI program and appreciate the opportunity to provide feedback as specific recommendations are developed.

Sincerely,

Patrick Kelly
Senior Policy Advisor
Fuels Issues, Downstream