



Our Mission

We're working to rapidly reduce climate pollution at scale, starting in California.

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August 31, 2023

Subject: Comments of The Climate Center on Docket Log 23-SB-02 (SBX1-2 Implementation) Transportation Fuels Assessment Workshop (August 17, 2023)

Dear Commissioners:

Thank you for the opportunity to comment. The Climate Center is a California statewide climate and energy policy nonprofit founded in 2001 with a mission to rapidly reduce climate pollution at scale, starting in California. We recognize the hard work on the part of the staff to bring forward helpful information, and to the Commissioners for their attention to this matter.

We understand that this proceeding is pursuant to SBX1-2, the “gasoline price gouging bill,” and accordingly, that the emphasis of the workshop and other activities related to this proceeding might be all about reining in prices. The California “Mystery Gasoline Surcharge” graph presented by the Haas Business School makes it clear that the problem is real and must be addressed.

However, there is a larger context of the decades-long managed decline and transition away from the production and use of fossil fuels within which this question is framed. Although we agree that gasoline producers should not be permitted to overcharge for their product, The Climate Center’s greatest interest is to ensure that any fuel price stabilization be framed within the context of an equity-centered managed transition away from dependence on these fuels. Transportation fuels and the refineries that produce them are indeed the right places to look for leverage in addressing California’s fossil fuel use, especially given that they are the source of about half of California’s greenhouse gas emissions. For that reason, our comments are in the context of SBX1-2 Section 25371.3 that aims to ensure “progress toward the state’s reliable, safe, equitable, and affordable transition away from petroleum fuels in line with declining instate petroleum demand.”

We want to imbue a sense of urgency about the transition. The summer of 2023 is turning out to be a summer of climate consequences as we see regional and global heat records shattered, unprecedented Antarctic sea ice melt, alarmingly high

seawater temperatures, anomalous flooding episodes around the world, wildfire in Canada, Maui, Greece, and elsewhere, and more. This is on top of the decades of serious health impacts to people who live near refineries and other fossil fuel facilities.

Action to initiate a methodical planned transition must happen immediately. The sooner the transition begins, the more lead time that is available to allow for things like workforce transitions to take place, avoiding abrupt refinery closures, gasoline price spikes, and other social and economic shocks. The longer we delay, the more difficult any future transition efforts become.

We were pleased to see that the workshop did in fact include substantial information, materials, and discussion about this much needed and urgent transition among the Commissioners, staff, and subject matter experts.

In our brief public comment at the end of the workshop, we noted a concern about how crude imports were characterized mainly as a means of keeping prices from spiking when in-state supply may be constrained in some way. However, as it relates to the longer term transition, crude imports pose a special challenge. Under the current rules, importing crude, refining it, and exporting finished fuels can proceed ad infinitum. The reality is that California already refines more fuel than the state needs, and exports about one-third of in-state demand to external markets. We see this as a particularly difficult problem to solve, but it must not be ignored. An effort must be initiated to examine administrative, regulatory, legal and other means of addressing this problem – the interstate and international fossil fuel market and California's role in it. Article 1 section 1 of the California Constitution¹ states that Californians enjoy an "inalienable right" to "protect [our] property" and "obtain safety." We would like to suggest that the threats posed by continued production and use of fossil fuels and the consequences it imposes are a violation of this right, given the health impacts, property damage, and threat to safety resulting directly from the refineries and indirectly as the underlying cause of unprecedented wildfire and other weather extremes. This violation of the state's constitution underscores the need for increased regulation to limit throughput capacity and mitigate emissions.

A managed transition can begin today. California already refines more finished fuel product than it needs. Care must be taken to ensure that demand declines lead to a ramp-down of extraction, imports, and refining capacity, and much is being done on the demand side to ensure that demand will in fact decline. The Governor's Executive Order of 2020 requiring cessation of registration of new gasoline powered vehicles should be codified as part of the plan.

We are deeply concerned about industry proposals to transition not to a phase out of refining combustion fuels, but to refining of biofuels. Fenceline communities surrounding refineries in California have borne the brunt of decades of hazardous pollution, accidents, and explosions. Extending the life of these refineries for biofuel refining does not address these problems, nor is it a long term climate solution. California needs to get away from combustion fuels altogether, and get on with beneficial electrification of transportation as we rapidly clean up the grid, one of the bright stars of California's climate actions.

Similarly, we have deep concerns about industry efforts to lobby for hydrogen as a supposed replacement fuel for fossil gas burning power plants and for other uses. Combustion of hydrogen produces significant nitrogen oxide emissions, a criteria pollutant that leads to smog formation. Promises that these NOx emissions can be mitigated should not be used in order to greenlight its use. Hydrogen is fraught with problems and great care must be taken in limiting production to renewable energy based electrolytic, prioritizing co-location of production and use

¹ https://leginfo.ca.gov/faces/codes_displayText.xhtml?lawCode=CONS&division=&title=&part=&chapter=&article=I

in order to minimize the need to deliver it over long distances, and a sober evaluation of appropriate end uses, limited to hard to electrify purposes.

The public needs to be able to access information about the managed decline and transition plan easily. We suggest that the CEC collaborate with the Governor's Office and relevant agencies to stand up a web based portal or dashboard that incorporates all aspects of the effort. Such a site would be analogous to the website that the state hosts for the California Budget. The Budget is a very complex document with many diverse "moving parts," but it is possible and indeed very helpful to collect all of the information in one place. The same should happen for the state's climate and managed transition efforts.

To summarize, The Climate Center strongly recommends that the state:

- Assign a single lead on all aspects of planning and implementation of a managed decline and transition away from fossil fuels; this can be a lead agency, or a lead cabinet level individual;
- Organize an interagency working group or task force to coordinate among relevant agencies;
- Develop and begin implementation, as soon as possible, of a Managed Transition Plan with clear milestones and targets, led by the newly appointed lead;
- Create a single public-facing web portal or dashboard that encompasses all aspects of the managed transition;
- Initiate an evaluation of options to address interstate and international crude oil and refined products markets;
- Codify N-79-20, the Newsom Executive Order with a year-certain for cessation of registration of new gasoline-powered vehicles.

The Climate Center believes in thriving, healthy communities. We envision a future where all Californians enjoy clean air, water, and soil, renewable and reliable energy, healthful food, thriving nature, and more. California has the tools and know-how to lead on climate, but oil and gas interests are getting in the way of progress. Californians, especially the most marginalized among us, are reeling from climate disasters and fossil fuel pollution today. When leaders like the Energy Commission accelerate the transition from polluting fuels to clean energy, all Californians benefit. California must lead on climate once again at the speed and scale required. Our communities deserve accelerated, equity-centered solutions that will inspire other states, the nation and the world to accelerate their climate actions. Working together, we will ensure California leads once again toward a climate-safe future for all.

Respectfully Submitted,
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Phase Out Polluting Fuels Program Manager,
The Climate Center