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Vicki Arroyo
Executive Director
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Re: Transportation and Climate Initiative

API is the national trade association representing all facets of the natural gas and oil industry, which supports 10.9 million U.S. jobs and nearly 8 percent of the U.S. economy. API's more than 600 members include large integrated companies, as well as exploration and production, refining, marketing, pipeline, marine businesses, and service and supply firms. They provide most of the nation's energy and are backed by a growing grassroots movement of millions of Americans. API was formed in 1919 as a standards-setting organization. In its first 100 years, API has developed more than 700 standards to enhance operational and environmental safety, efficiency and sustainability.

API and its members are committed to delivering solutions that reduce the risks of climate change while meeting society's growing energy needs. We appreciate the opportunity to comment on the Transportation and Climate Initiative of the Northeast and Mid-Atlantic states (TCI). The intent of the TCI program is to reduce greenhouse gas emissions from the transportation sector. Policies developed to achieve this goal must be structured and implemented in a cost-effective manner.

API supports global action that drives greenhouse gas emissions reductions and economic development. We advocate for government policies that ensure the availability and continued development of affordable, reliable and sustainable energy, including oil and natural gas supplies and products derived from them, to consumers.

API seeks to learn more about the program details and the basis of the modeling that is inherent in the program design. There are many program elements that need to be clarified before we can offer a complete response to the Draft MOU. We offer the following comments to the December 17, 2019 Draft MOU and modeling results.

Program Linkage and Economy Wide Approach

Public policy approaches to reducing GHG emissions should apply across all sectors of the economy to encourage cost-effective innovations and reduce the societal costs of the program. A sectoral approach that only considers emissions from the transportation sector risks imposing higher costs on consumers relative to those incurred from the adoption of carbon abatement strategies in other sectors. The TCI program should include design features that enable carbon emissions reductions in other sectors and provide mechanisms that lessen the economic impact of the program.

Linking TCI with the existing Regional Greenhouse Gas Initiative (RGGI) would improve the cost-effectiveness of the program. Technical Workshop Materials presented in April 2019¹ acknowledge two key items as “Ways to Manage Costs in Transport C&I”: 1) Expand the Market (link across states), and 2) Link across Sectors (RGGI). The Draft MOU supports the potential to link TCI and RGGI “in the future,” and a final MOU should make a strong commitment to link the two programs from the outset. A single program covering CO₂ emissions from both electric power and transportation fuels is more likely to provide CO₂ reductions at a lower cost to society than if operated as two separate and distinct programs.

Linking RGGI and TCI also improves the program for consumers, regulators, and regulated entities. A combined program enables consumers to make cost-effective choices to reduce their carbon emissions. Leveraging existing regulatory, oversight and compliance mechanisms already in place for the RGGI program will simplify overall administrative burden for state regulators and regulated entities. Linking with RGGI increases certainty for regulated entities by creating a larger pool of allowances available for compliance, which could lead to increased market liquidity and price stability and deliver lower cost solutions for compliance.

Regulatory Framework

API is interested to learn more regarding the TCI program’s regulatory framework. To ensure a level playing field for all regulated entities, the TCI program should use clear and unambiguous regulatory language with minimal complexity. Program enforcement should be flexible, verifiable, and effective in preventing fraud. We encourage TCI to develop and release details demonstrating how the program will meet these necessary elements, in addition to the intended CO₂ reduction goals.

Regulated Entities

API supports TCI’s proposed definition of regulated entities. The Draft MOU defines “Position Holders” and “Enterers” as “State Fuel Suppliers,” who would be the regulated entities for the TCI program. API submitted comments on August 30, 2019 and November 5, 2019 expressing our concerns about the original proposal to identify “Prime Suppliers,” as defined by the Energy Information Administration (EIA), as the appropriate regulated entities. Instead, we recommended that the point of compliance should be consistent with the point of taxation in individual states. Aligning with the point of taxation leverages existing regulatory programs, minimizing program cost and complexity. It should increase data validity

¹ Palmer, Karen “Options for Managing Costs in Carbon Markets” Resources for the Future. April 30, 2019.

and transparency and improve the enforceability for regulators while avoiding problems with the “Prime Supplier” definition.

Program Flexibilities

A primary objective for TCI should be to set an appropriate cap level. If the cap level is not appropriate, the program will require flexibility mechanisms to adjust compliance requirements and to remain feasible.

API is generally supportive of program flexibilities to ensure that “relief valves” are sufficient to prevent excessive credit price increases and increase regulatory certainty. Program flexibilities should be transparent, forward-looking, and provide regulatory certainty by allowing the stringency of the program to respond to market and economic conditions. In addition, we support a periodic review of the cap level that considers the feasibility of meeting future year cap levels and allows for adjustments as necessary.

Banking and trading of allotments are critical flexibility mechanisms that are necessary to ensure the proper function of the program. For any multi-year compliance period, compliance should be monitored and assessed at interim points. This provides a safeguard against the possibility that some parties may accumulate an infeasible compliance deficit and exit the market with an unfulfilled obligation. API supports a three-year compliance period combined with interim reporting and compliance requirements to mirror the RGGI program and ensure proper interoperability between the programs. For a three-year compliance period, a requirement that 30% of prior year obligations outstanding be demonstrated each year would provide the desired flexibility and compliance assurance.

Biofuels

API supports the exemption of biofuels when establishing compliance obligations for regulated entities. The use of biofuels in other transportation fuels (e.g. jet fuel) and non-transportation related engines and equipment (e.g. non-road diesel, marine, heating oil, etc.) should qualify for the generation of offset allowances under the TCI program. Liquid fuels, including biofuels, could provide lifecycle GHG benefits, depending on the feedstock and process technology.

Offsets

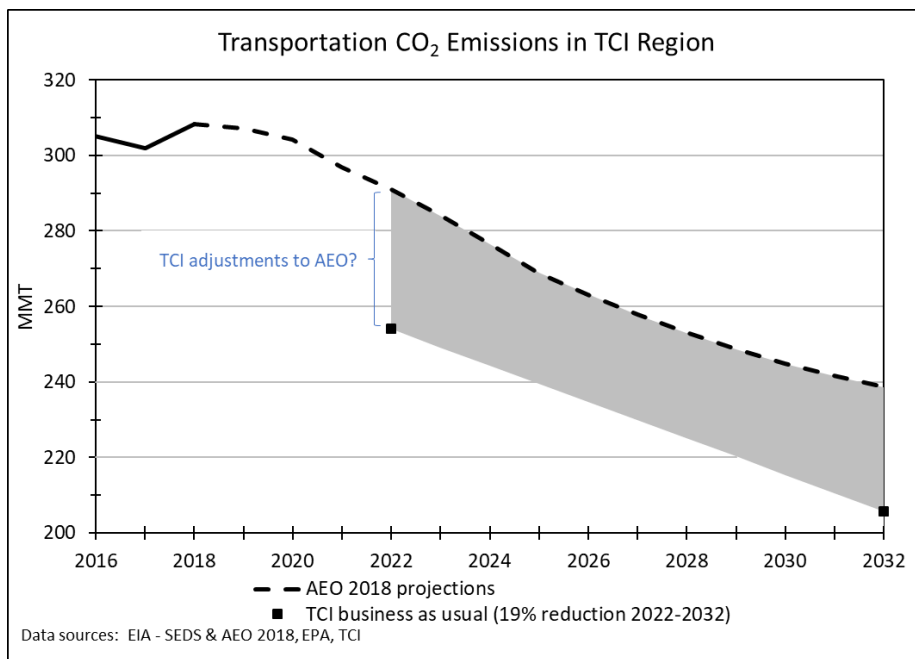
Provisions that reduce compliance costs by allowing a fuel supplier’s obligation to be met through offsets are essential. Offset provisions expand the reach of the TCI program beyond the transportation sector and reduce CO₂ emissions and costs. In addition, early and/or voluntary actions of regulated entities that reduce the CO₂ impact of their operations in the region should be included in an offset provision.

Modeling

API requests additional information be shared on the assumptions and data utilized by TCI to develop the reference case (“business as usual”)² and projections of transportation CO₂ emissions in the absence of the proposed new policy. Additional data would increase certainty in quantifying and evaluating differences among TCI’s modeled policy scenarios and business as usual case.

² https://www.transportationandclimate.org/sites/default/files/TCI%20Public%20Webinar%20Slides_20191217.pdf

API has analyzed EIA data in the Annual Energy Outlook (AEO) 2018 reference case, which was the basis for modeling the TCI reference case. The dashed line on the figure³ below illustrates plausible CO₂ transportation emissions based on: 1) the AEO 2018, 2) the historical share of transportation fuel consumption in the TCI region, and 3) combustion emission factors.⁴ The square black boxes are placed at 254 MMT for year 2022 and 206 MMT for year 2032 to represent the TCI business as usual case emissions in 2022 and the TCI estimated 19% reduction in the business as usual case for 2032. The gray shaded area represents our estimate of the aggregated and unpublished adjustments made by TCI to develop its business as usual case. It will be helpful for TCI to clarify the assumptions used in the business as usual case, as well as the 20% and 25% policy reduction cases (e.g. VMT, CAFE regulations, electric vehicle penetration rates, battery costs and other important factors).



Based on our analysis, we observe that the TCI modeled cap values for 2022 and 2032 may be too low, compared with EIA projected data. In addition, the use of a projected value as a starting point for the program creates significant uncertainty for the policy. API supports using actual emissions from the region during a recent year, such as 2018, as the anchoring point for the program modeling.

API has engaged with a consultant with NEMS modeling expertise to simulate the TCI business as usual case and to compare this result with the data from the AEO 2018. To facilitate this comparison, API is requesting TCI to release a full set of NEMS modeling input adjustments and modeling output detail used

³ On average, the TCI region accounts for 20% and 15% of the nation's gasoline and distillate fuel consumption for transportation, respectively. These percentages were multiplied by AEO national transportation fuel consumption projections and combustion emission factors to calculate the black solid and dashed lines. The solid black lines for 2016 and 2017 equate to estimates for actual emissions. The dashed black line equates to an estimate of projected emissions.

⁴ <https://www.epa.gov/sites/production/files/2019-04/documents/us-ghg-inventory-2019-annex-2-emissions-fossil-fuel-combustion.pdf>

in developing the TCI business as usual case. We encourage TCI to be transparent in sharing this information, because it is essential for regulated entities to have a full understanding of the emission reductions and program costs as presented in the MOU. We look forward to engaging in a meaningful discussion on the results of the analysis.

Program Investments and Benefits

The TCI framework does not specify how potential projects for using proceeds would be evaluated. Selection criteria for investments with tangible GHG emission benefits and effective measures to lower compliance and consumer costs should be prerequisites from the program onset.

We look forward to learning more about the TCI program and appreciate the opportunity to provide feedback.

Sincerely,

A handwritten signature in blue ink that reads "Patrick Kelly". The signature is fluid and cursive, with the first name being more prominent than the last.

Patrick Kelly
Senior Policy Advisor, Fuels