

Implementing Performance-Based Sustainability Standard for CA LCFS

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Recommendation of CA LCFS Sustainability Requirement: (1) Minimum Sustainability Requirement and (2) Mandatory Reporting against Sustainability Principles and Criteria and Verification; or Voluntary Certification

CA LCFS sustainability standard should consider: (1) Require independent verification or voluntary certification for meeting two mandatory minimum requirements: no newly converted land in high biodiversity area, and no newly converted land in high C stocks area. (2) Require self-evaluation and reporting against all of the CA sustainability principles and criteria¹ and verification; or voluntary certification.

Self-reporting and verification: the self-reporting requirement encourages regulated parties (RP) to develop self-evaluation against CA sustainability principles and criteria and report its evaluation. The self-evaluation is not required to demonstrate meeting all of the sustainability principles and criteria but its data accuracy needs to be verified by an independent auditor. Independent verification is also required for insuring that the two minimum requirements above are fully met. The intention is as a first step to create an easy entry for reporting sustainability performance, encourage innovations by RPs in developing metrics of measurement for evaluating sustainability performance, and collect verifiable data. CARB will need to conduct an annual evaluation and periodic review of program and determine whether further adjustments or an alternative system is needed in future dates.

Voluntary certification: benchmark to CA sustainability principles and criteria or adopt those accepted in EU RED.²

Demonstration of compliance: the industry can either: 1. provide CARB authority with data that has been independently audited for its accuracy; or 2. provide CARB authority with proof of approved voluntary certification.

The industry must submit three things to demonstrate compliance:

- . To submit information on biofuels' compliance with sustainability standard as described in (1) and (2) above;
- . To arrange for an adequate standard of independent auditing; and
- . To use a Chain of Custody (CoC) system for information transfer.

All of the above recommendations are consistent with EU RED sustainability requirement with the exception of GHG threshold requirement (not applicable in CA LCFS, which rewards continuous carbon reduction from the baseline) and CoC (see below for further discussion). It is not mentioned here but assumed that all fuel suppliers will meet the RFS2 sustainability requirement.³

¹ The list of principles and criteria covers environmental, social and economic criteria currently developed by staff in consultation with working group.

² Establishing mechanisms for dispute will be a critical component if CA were to automatically accept those certifications accepted by the EU RED.

³ See review and discussion in Yeh, Sonia, Daniel A. Sumner, Stephen R. Kaffka, Joan M. Ogden, and Bryan M. Jenkins. 2009. Implementing Performance-Based Sustainability Requirements for the Low Carbon Fuel Standard - Key Design Elements and Policy Considerations. Institute of Transportation Studies, University of California, Davis. Research Report UCD-ITS-RR-09-42.

Challenging Issues that Continuous Progress still Needs to be Made:

Chain-of-Custody in the current LCFS carbon accounting scheme does not track feedstock to the field level, only to the refineries. Establishing sustainability requirement will require tracking CoC to the field level. The inconsistency between carbon accounting CoC and sustainability requirement CoC must be addressed.

The CoC that's best for CA LCFS may not be the same as the one required in the EU RED, mass balance CoC. Mass balance will be challenging to meet in California for two reasons: (1) in California carbon credits maybe separated from fuels in the future, as is in the RFS2 which RINs can be sold separately from fuels, allowing for more flexible trading of credits; (2) mass balance CoC will be difficult to establish for food commodities such as soybean that has very complex supply chain and soybean oil is only a byproduct. For the above reasons, a more flexible CoC such as book and claim may be more desirable especially in the early years of compliance.

Extending CoC to the field level will **incentivize** fuel providers to report agricultural practices that also have large carbon reduction benefits such as no-till, reduced fertilizer use, and yield improvement that current can not be realized under the current carbon accounting CoC.

WTO challenge can exist for many of the sustainability standard if mandatory, even for C standard (e.g. ILUC WTO dispute in EU). The recommendations proposed above can hopefully largely avoid WTO challenges since (1) the two minimum requirements proposed above have the least likelihood of invoking WTO challenges; (2) mandatory reporting and voluntary compliance with the broader sustainability principles and criteria will not violate WTO rules.³