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Assembly
California Legislature

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September 23, 2024

Honorable Liane Randolph

Chair, California Air Resources Board

1001 “I” Street Sacramento, CA 95814

Re: Proposed Low Carbon Fuel Standard 15-Day Changes

Dear Chair Randolph:

We, the undersigned members of the California State Legislature, are writing to express our serious concerns regarding the recent 15-Day Changes to the Proposed Amendments to the Low Carbon Fuel Standard (LCFS) Regulation. Specifically, we are troubled by the proposal’s lack of ambition and arbitrary restrictions on compliance options, including biofuel feedstock limitations, which we believe may have unintended and adverse consequences.

We understand that for the LCFS program to succeed, higher credit prices are needed to drive investment and innovation. The 15-Day Change package recognizes this and increases the program ambition but does not go far enough.[1] At least a 40% economy-wide reduction in greenhouse gases (GHGs) is required by law,[2] transportation fuels are the biggest source of GHG emissions,[3] yet the LCFS 15-Day Package only targets a 30% reduction by 2030.

CARB should set more ambitious LCFS targets, in line with our economy-wide GHG reduction goals, and following legislatively directed concepts such as achieving the maximum technologically feasible and cost-effective GHG emissions reductions.

Instead, the 15-Day Package arbitrarily limits compliance options in a way that conflicts with legislative direction. The proposed limits would impose unnecessary burdens on fuel producers

[1] Throughout the public process on this rule, a diverse group of clean fuel voices contracted with the consulting firm ICF to independently prepare and submit an analysis of what program targets are feasible. This ICF work shows that a carbon intensity reduction target of 41-44% for 2030 is achievable. https://www.arb.ca.gov/lists/com-attach/7586-lcfs2024-VDVTO1Q0UG8DfwB5.pdf
[2] Section 38566 of the Health and Safety Code.
[3] https://ww2.arb.ca.gov/ghg-inventory-data

and consumers without significantly enhancing the program's environmental outcomes. The result of the proposed 15-day changes will be higher credit prices for less GHG abatement, which should not be the goal of CARB. We are also concerned this rulemaking will impact other states who are considering implementing their own LCFS programs.

1. Unintended Consequences of Feedstock Restrictions

The restrictions on feedstocks, with a 20% cap on soy- and canola-derived biomass-based diesel (BBD), is concerning as it does not follow scientific modeling and comes with severe unintended consequences. CARB's own modeling and conclusions presented in its workshop on April 10, 2024, shows that an artificial cap on vegetable oil feedstocks is unwarranted and would only increase fuel prices and harm air quality. With the implementation of a cap on BBD feedstocks, a phaseout of BBD pathways, and even more restrictive and costly traceability and verification system, *this proposal will only lead to more combustion of fossil diesel fuel, higher fuel prices at the pump, and poorer air quality*. It would also significantly harm the transition of aviation sector to sustainable jet fuels. CARB should therefore reject the imposition of a vegetable oil cap and adopt a targeted, risk-based approach to sustainability requirements which does not penalize sustainable U.S. fuels and feedstocks.

2. Impact on Hydrogen Production

The proposed changes to indirect accounting for low-CI electricity limits utilization of renewable electricity for production and processing to only electrolytic hydrogen. The 2022 Scoping Plan highlights hydrogen's critical role across multiple sectors, projecting that roughly half of all hydrogen in 2045 will come from biogenic sources. Restricting low-CI electricity benefits to electrolytic hydrogen alone undermines California's broader decarbonization goals, as much of the hydrogen supply will require flexibility in electricity sourcing and omitting half of the needed renewable hydrogen production will leave emissions on the table.

Most renewable electricity, regardless of end user, originates off-site at distant wind, solar, hydroelectric, or geothermal facilities and is delivered to customers indirectly via the grid. Similarly, the LCFS should allow all hydrogen process energy, which accounts for approximately 30% of liquid hydrogen's carbon intensity, to be treated equitably, to fully utilize low-CI electricity for decarbonization.

Allowing all hydrogen production pathways to use low-CI electricity maximizes environmental and economic benefits. Moreover, electrolytic hydrogen faces challenges such as grid access to allow hydrogen producers to procure renewable electricity and the need for supportive electric sector policies. The LCFS should ensure the ability to maximize the decarbonization potential for biogenic hydrogen that is necessary for achieving our carbon neutrality and zero-emission transportation goals.

Furthermore, advanced pyrolysis is omitted as a hydrogen production pathway which is a promising mitigation and economically viable tool to manage the excess biomass from sources like agricultural waste, forestry residues generated from wildfire mitigation activities, and even methane conversion – all resulting in physical carbon that is not emitted into the atmosphere.

These pathways are supported by grants from the State and the best available science from our national laboratories. CARB should list biomass gasification to hydrogen as a fuel pathway classification to drive these investments that will help the state further manage excess biomass that has substantial environmental co-benefits for our communities.

3. Remove Limits on Methane Capture from Organic Waste

The 15-Day Package also proposes various arbitrary phase-outs for recognition of the benefits of capturing and utilizing methane from organic waste as a renewable fuel. Methane is a highly potent short-lived climate pollutant and capturing it for productive use is one of the most cost-effective strategies to rapidly reduce the rate of warming and contribute significantly to global efforts to limit temperature rise to 1.5° C.[4] The legislature has repeatedly emphasized the importance of organic waste methane reduction and support for beneficial uses of biomethane derived from this captured methane.[5]

CARB should not propose phasing out LCFS crediting for methane capture untethered to any long-run strategy to ensure continued methane abatement. It is unwise and irresponsible to propose an arbitrary phase-out of avoided methane crediting without a detailed plan for replacement policies in both the waste and dairy sectors. *It also dissuades the very projects that California needs to build prior to 2030 to meet its short-lived climate pollutant goals.*

4. Suggested Alternative Approach

We believe a more effective way to best meet our climate goals, while maintaining a healthy LCFS market, would be to simply focus on overall ambition of the program while maintaining technological neutrality. Instead of restricting feedstocks or imposing other arbitrary limits to manipulate credit prices, we believe CARB should focus on tightening the carbon intensity reduction targets within the LCFS framework. By setting more ambitious goals for GHG emissions reductions and allowing the market to determine the most efficient path forward, we can maximize emission reductions while creating a healthy market that will drive both near-term action and long-run innovation in clean fuels.

5. Conclusion

The LCFS is designed to reduce the carbon intensity of transportation fuels, helping California lead the nation in the fight against climate change. By promoting cleaner, renewable energy sources and reducing greenhouse gas emissions, the LCFS contributes to a healthier environment for all Californians and beyond as other states look to emulate our program. It is imperative that California continue to lead the nation on climate policy and not minimize this successful program. While we fully support the goal of reducing GHG emissions and advancing California's climate leadership, we urge CARB to reconsider its 15-day package and eliminate arbitrary limits, such as the proposed feedstock restrictions. We believe that a more effective approach lies in focusing on the overall ambition of the LCFS targets while preserving a level playing field for

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[4] https://www.ccacoalition.org/resources/global-methane-assessment-summary-decision-makers
[5] For example, see Senate Bill No. 1383 of 2016 (Lara).

all technologies. This will better serve our environmental objectives and ensure that the LCFS remains a robust marketplace for investment.

We would also note that we believe that this approach will not significantly raise fuel prices, despite recent criticism from the oil industry. Recent analyses show that retail fossil fuel prices are strongly influenced by many factors (e.g., global events, holiday weekends, seasonal fluctuations, refinery disruptions and decisions about production that affect supply, refinery pricing decisions, seasonal fuel blends, and taxes) and fossil fuel producer pricing strategies are complex, reflecting local and regional market conditions. As CARB has noted before: “The reality is that the actual cost pass-through from LCFS to retail gasoline or diesel prices is uncertain, that there is no correlation between historical LCFS credit prices and gasoline prices, and that the LCFS is not a major driver of overall retail fuel prices in California.”

The LCFS is a critically important program to meeting our climate goals and decarbonizing our economy. We believe our comments provide the best and most scientific approach to stabilizing the program while maximizing GHG reductions. It’s unfortunate that certain groups are pushing for a swifter move away from proven solutions to less-proven technologies on a timeline that is unrealistic and will simply cost consumers more.

We would urge CARB to reject those proposals and reject the 15-day changes that simply pick technology winners and losers that will drive less GHG reductions over the next decade and discourage long-run creativity and innovation. CARB should remain grounded in the latest science and promote fairness and consistency throughout all industries to achieve our climate goals.

Thank you for your attention to this important matter. We look forward to working with CARB to advance California’s climate goals in a manner that is both effective and equitable.

Sincerely,

Juan Carrillo
Assemblymember, 39th District

Steven Bradford
Senator, 35th District

Carlos Villapudua
Assemblymember, 13th District

Avelino Valencia
Assemblymember, 68th District

Anna Caballero
Senator, 14th District

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Senator, 15th District

Josh Newman
Senator, 29th District

Susan Rubio
Senator, 22nd District