



September 30, 2024

VIA ELECTRONIC FILING

Ms. Rajinder Sahota  
Deputy Executive Officer - Climate Change & Research  
California Air Resources Board  
1001 I Street  
Sacramento, Ca 95814

**Re: Neste Comments on Recirculated Draft Environmental Impact Analysis for Proposed Low Carbon Fuel Standard (LCFS) Regulation Published on August 16, 2024**

Dear Ms. Sahota:

Neste appreciates the opportunity to provide these comments to the California Air Resources Board (CARB) regarding the Recirculated Draft Impact Analysis (Recirculated EIR) published on August 16, 2024. These comments are in addition to the comments submitted by Neste for the 45-day regulatory package on February 20, 2024<sup>1</sup>, the April 10, 2024 LCFS Workshop<sup>2</sup> and the August 12, 2024 15-day package<sup>3</sup>, and all of our recommendations should be considered as part of this LCFS rulemaking.

Neste continues to be disappointed by the lack of public discussion on the substantial changes proposed in the August 12, 2024 15-day package that go well beyond what would be expected in a 15-day package and many are not connected to the 45-day package<sup>4</sup>. Page 2 of the Recirculated EIR acknowledges that when “significant new information is added...” that “a lead agency must recirculate the environmental document for public review of the new information”. It is of the utmost importance that CARB pull these major changes proposed in the 15-day package to ensure adequate public discussion can occur and avoid the countless unintended consequences noted as part of the 15-day commenting period<sup>5</sup>.

We are also concerned with the cost implications of the various proposals that affect renewable diesel (RD) and SAF. These cost implications may lead to higher costs for consumers and fuel supply instabilities without delivering significant environmental improvements as compared to CARB’s proposals in the 45-day regulatory package. Neste recommends that CARB reprioritize technology neutrality to ensure that California consumers receive renewable energy at the lowest cost possible. Focusing on the renewable energy needs of nearby jurisdictions is counterproductive because climate change is a global phenomenon and any GHG emissions reductions will result in global benefits.

Neste continues to recommend the following as part of the LCFS rulemaking to protect consumer fuel prices, to continue incentivizing investments in liquid renewable fuels, and to be more aligned with the 45-day package published in December 2023:

- Reject the proposal to give CARB the discretion to not accept new RD pathway applications and stick to your policy of technology neutrality (95488(d));

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<sup>1</sup> <https://www.arb.ca.gov/lists/com-attach/6974-lcfs2024-B2IUN1YkACcLaARb.pdf>

<sup>2</sup> <https://ww2.arb.ca.gov/form/public-comments/submissions/11066>

<sup>3</sup> <https://www.arb.ca.gov/lists/com-attach/7564-lcfs2024-AG4HZFUnACcGZQNC.pdf>

<sup>4</sup> [https://oal.ca.gov/rulemaking\\_participation/#six](https://oal.ca.gov/rulemaking_participation/#six)

<sup>5</sup>

[https://www.arb.ca.gov/lispub/comm/iframe\\_bccommlog.php?listname=lcfs2024&\\_ga=2.148647486.864554146.1724959263-1388421127.1643142970](https://www.arb.ca.gov/lispub/comm/iframe_bccommlog.php?listname=lcfs2024&_ga=2.148647486.864554146.1724959263-1388421127.1643142970)

- Apply an immediate CI step-down of **12%** (and not the proposed 9%) in 2025 to adequately address the large credit bank and more quickly stabilize the credit prices;
  - ICF has shown that a step down of 20.25% is needed<sup>6</sup> and the credit market continues believe that more is possible;
- Start applying the CI Automatic Acceleration Mechanism (AAM) proposed by CARB in 2026 (using 2025 data) and not wait until 2027 to address overperformance in the LCFS credit market should it persist;
- Remove the additional changes to the sustainability requirements (95488.9(g)) proposed in this 15-day package and the proposed increases to LUC factors (95488.3(d)). This will only lead to higher costs and minimal benefits to the environment; and
- Eliminate the proposed 20% cap on soybean and canola oil used to produce RD and SAF (95482(i)). Such a cap is likely to increase use of fossil diesel and jet fuel as stated by CARB at the April 10<sup>th</sup> workshop<sup>7</sup>, and lead to avoidable RD and SAF price increases.

Neste also recommends the above changes in light of the Recirculated EIR, noting on page 51 and 52 that RD and biodiesel represent the largest source of NOx and PM emissions reductions from this rulemaking. Proposals to disincentivize RD and BD could therefore have real consequences in terms of negatively impacting air quality. GHG emissions are likely to occur as well, however the analysis in this Recirculated EIR does not accurately reflect that.

Below is a detailed discussion of the analysis presented in the Recirculated EIR. We urge CARB to issue another 15-day package to ensure that the problems created by this 15-day package are reversed. Neste also supports the comments from the Low Carbon Fuels Coalition (LCFC) and ICF on this rulemaking. We appreciate your consideration.

### **Proposed Limits on Biomass-Based Diesel Could Lead to Higher Fossil Diesel Use and Poorer Air Quality**

Neste has participated in multiple CARB workshops where CARB discussed the negative implications of limiting biomass-based diesel. In CARB's April 10<sup>th</sup> LCFS Workshop, CARB noted in its presentation that any limits on biomass-based diesel would be backfilled by fossil diesel (see slide 21)<sup>8</sup>. In fact, CARB stated that 60% of fossil diesel has been displaced by biomass-based diesel in 2023, resulting in PM and NOx benefits (see slide 12). It is clear that any limits or reductions in biomass-based diesel could lead to higher air pollutant emissions, and overall higher health impacts in California.

As part of the recirculated draft EIR for the LCFS rulemaking, the air quality impacts analysis conducted by CARB highlights that biomass-based diesel use represents a large majority of the NOx and PM reductions from this rulemaking. Figure 1 below shows the RD and biodiesel tailpipe emission reductions represent approximately **50%** of PM2.5 reductions from this rulemaking (see page 52 of the recirculated EIR)<sup>9</sup>.

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<sup>6</sup> <https://www.arb.ca.gov/lists/com-attach/7078-lcfs2024-VDVcNFlyVGsLdFQu.pdf>

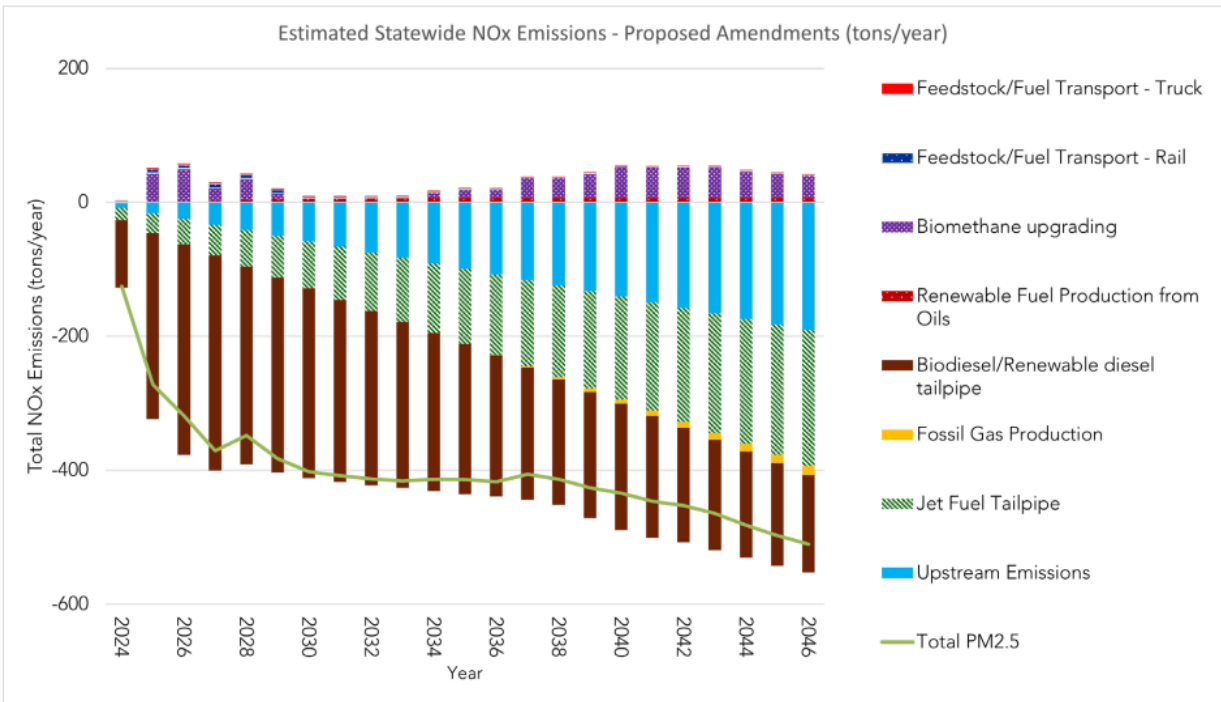
<sup>7</sup> <https://ww2.arb.ca.gov/sites/default/files/2024-04/LCFS%20April%20Workshop%20Slides.pdf>, slide 21

<sup>8</sup> <https://ww2.arb.ca.gov/sites/default/files/2024-04/LCFS%20April%20Workshop%20Slides.pdf>

<sup>9</sup>

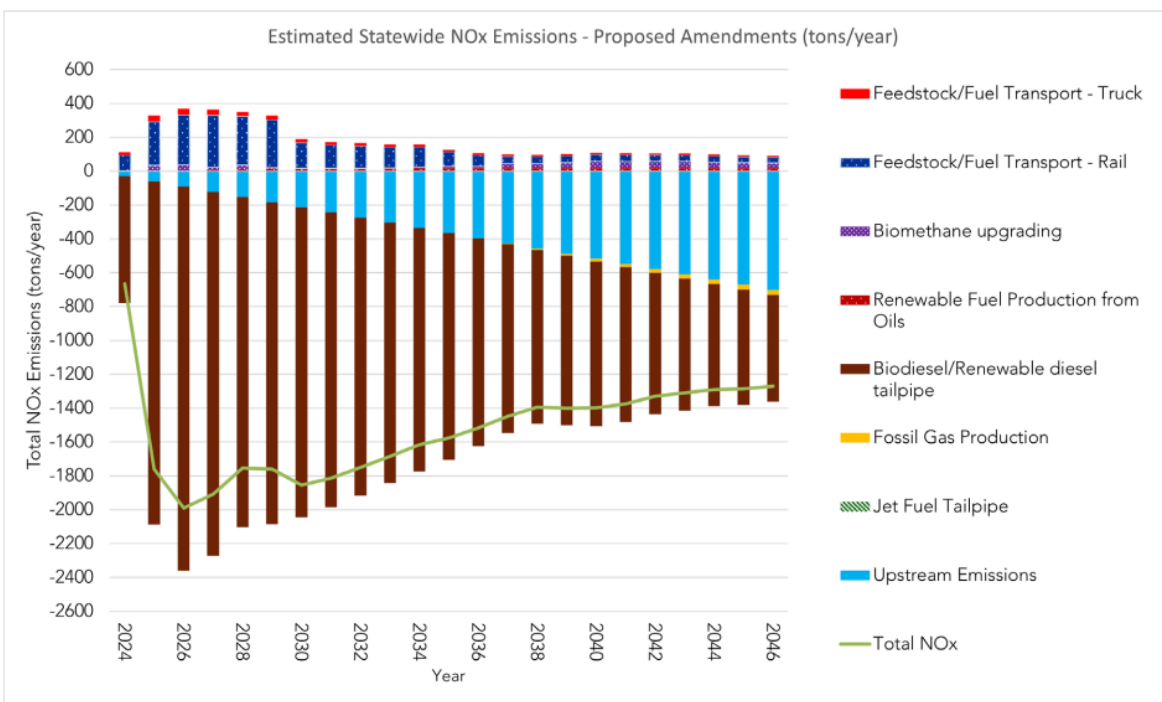
[https://ww2.arb.ca.gov/sites/default/files/2024-08/2024%20LCFS\\_Amendments\\_Air\\_Quality\\_Calculations\\_15Day%20Proposed\\_1.xlsx](https://ww2.arb.ca.gov/sites/default/files/2024-08/2024%20LCFS_Amendments_Air_Quality_Calculations_15Day%20Proposed_1.xlsx)

Figure 1: Sources of PM2.5 Emissions Reductions from LCFS Rulemaking



Similarity, CARB’s analysis of NOx reductions on page 51 shows that RD and biodiesel tailpipe emissions reductions represent approximately **78%** of the reductions achieved by this rulemaking (see Table 2 below)<sup>10</sup>.

Figure 2: Sources of NOx Emissions Reductions from LCFS Rulemaking



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[https://ww2.arb.ca.gov/sites/default/files/2024-08/2024%20LCFS Amendments Air Quality Calculations 15Day%20Proposed 1.xlsx](https://ww2.arb.ca.gov/sites/default/files/2024-08/2024%20LCFS%20Amendments%20Air%20Quality%20Calculations%2015Day%20Proposed%201.xlsx)

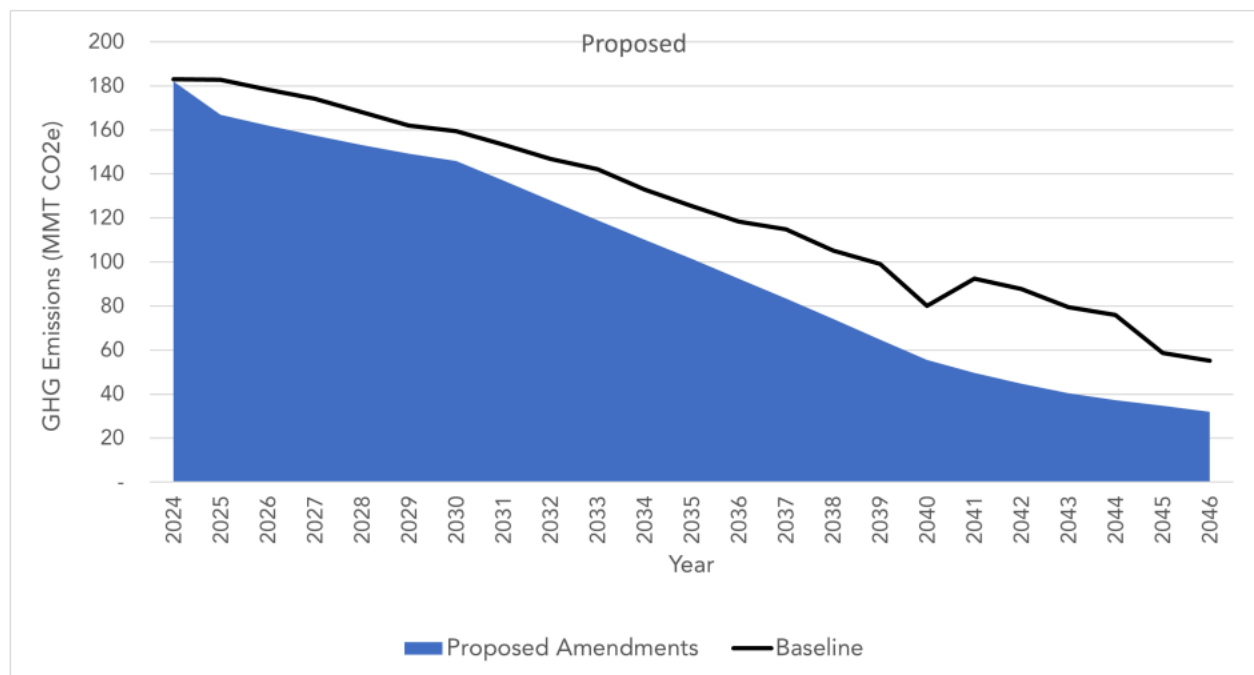
In summary, RD and biodiesel use represent a significant majority of the air quality benefits achieved by the LCFS, and any reductions in their use could lead to negative air quality impacts.

### **GHG Emissions Modeled for 15-day Package Not Consistent with CARB Own Analysis in 45-day Package**

As part CARB’s April 10<sup>th</sup> LCFS Workshop, CARB modeled the “EJAC Scenario” that included a cap on biomass-based diesel production (see slide 31)<sup>11</sup>. CARB found that it resulted in an **increase** of 386 MMT CO<sub>2</sub> and \$85 net cost increased in costs to the state. Just four months later as part of the 15-day package, CARB has found that GHG emissions will **decrease** even with a cap and various limitations on biomass-based diesel. Figure 3 below from page 60 from the circulated EIR shows that somehow GHG emissions will decrease even with the possibility of higher fossil diesel use that is likely to occur from the constraints put on biomass-diesel in the August 2024 15-day package.

Neste reviewed the data used to generate Figure 3 below, and it appears as though CARB attributed several GHG reductions early into the Proposed Amendments that have no explanation<sup>12</sup>. Examples include lower than expected fossil fuel use in 2024-2026, making the GHG emissions artificially low early into the Proposed Scenario. As noted in our comment letter for the August 2024 15-day package, CARB is modeling the Proposed Scenario assuming an artificially low fossil diesel volume that is simply not possible (see page 7 of the comment letter)<sup>13</sup>. This resulted in the Proposed Amendments appearing as more effective than the Baseline, even though CARB’s own analysis back in just April 2024 would suggest otherwise.

**Figure 3: GHG Emissions from Proposed LCFS Amendments and the Baseline**



<sup>11</sup> <https://ww2.arb.ca.gov/sites/default/files/2024-04/LCFS%20April%20Workshop%20Slides.pdf>

<sup>12</sup> [https://ww2.arb.ca.gov/sites/default/files/2024-08/15Day%20GHG%20Calculations\\_posted\\_0.xlsx](https://ww2.arb.ca.gov/sites/default/files/2024-08/15Day%20GHG%20Calculations_posted_0.xlsx)

<sup>13</sup> <https://www.arb.ca.gov/lists/com-attach/7564-lcfs2024-AG4HZFUnACcGZQNC.pdf>

**EIR Contains Conflicting Statements Supporting Need for RD/BD/SAF growth but also Noting that RD/BD will be Constrained in the 15-day Package**

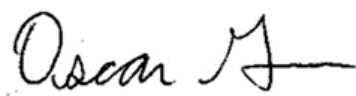
In the Recirculated EIR, CARB notes that this rulemaking is needed to further strengthen renewable energy growth, even for biomass-based diesel and SAF. Below are examples of statements made in the Recirculated EIR, and Neste agrees that these should be the priorities of this rulemaking.

- Staff is proposing to strengthen the pre-2030 CI benchmarks and create post-2030 CI benchmarks to signal long-term support for LCFS, which will help signal a strong LCFS market for the more infrastructure-heavy investment needed (e.g., **refinery conversions** and CCS). [page 9]
- This may include construction and operation of new facilities to produce renewable diesel, biodiesel, and AJF and collection and distribution of feedstocks to supply these facilities, or replace existing petroleum refineries. [page 23]
- The proposed amendments would likely also increase demand for biomass-based diesel and alternative jet fuel. [page 36]
- However, announced production capacity for renewable diesel and alternative jet fuel (AJF) in California has increased substantially in recent years, and it is likely that an increasing proportion of the renewable diesel and AJF demanded in future years of the program would be met by California sources. As a result, existing facilities could be expanded to accommodate general increases in production of these fuels. Additionally, new facilities could be constructed to accommodate the increased production of these fuels. [page 36]

However, the Recirculated EIR states that CARB is proposing several changes to the regulation that are counter to the stated goals above, and has thus far has not provided any technical justification for these last minute proposals. Below are examples of limits to biomass-based diesel that CARB is proposing, and Neste opposes all these proposals:

- Staff is proposing to stop accepting applications for new biomass-based diesel fuel pathway applications starting on January 1, 2031, contingent on successful implementation of California's medium- and heavy-duty (MHD) zero emission vehicle regulations. [page 15]
- In addition, staff is proposing to provide credits for biomass-based diesel produced from virgin soybean oil and canola oil for up to 20 percent of annual biomass-based diesel reported on a company-wide basis. [page 15]
- The proposed addition also avoids sending a long-term signal for virgin soy or canola oil to serve California demand. [page 15]
- However, the proposed regulation is not expected to result in significant increases in soy and canola feedstock utilization for biomass-based diesel, given that volumes in excess of 20 percent, which matches 2023 feedstock composition levels across all pathways, will not be eligible for crediting. [page 35]

Thank you for considering our comments and we look forward to continue working with CARB on this rulemaking.



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