

October 16, 2024

Chair Liane Randolph & Members of the Board  
California Air Resources Board  
1001 I Street  
Sacramento, CA 95814

*Via electronic submission*

**Re: Second 15-Day Changes Still Don't Address Need for Sound Science on Feedstock Issues**

Dear Chair Randolph and Members of the California Air Resources Board:

The Kansas Soybean Association (KSA) appreciates the opportunity to comment on the proposed modifications (Second 15-Day Changes) to the Low Carbon Fuel Standard (LCFS) program. KSA has welcomed engagement between industry and the California Air Resources Board (CARB) and staff throughout this multi-year process to develop and update the LCFS program. KSA represents soybean farmers across Kansas on public policy issues important to the soybean industry. Growers across the state have long been committed to producing the world's food, feed, fuel, fiber, and thousands of bioproducts in an environmentally and economically sustainable way.

Generally, CARB's Second 15-Day Changes to revise the LCFS did not address our major concerns with provisions included in the August 15-day notice nor did it provide additional clarification or detail related to sustainability reporting requirements for agricultural feedstocks. We do appreciate the additional flexibility related to virgin vegetable oil feedstock limitations, by extending the compliance deadline to January 1, 2028, for all approved pathways at the date of adoption. However, additional feedstock limitations included in the Second 15-Day Changes document are of significant concern.

In addition to the new proposals in the Second 15-Day Changes package, KSA remains deeply concerned with the drastic pivot CARB has made in the past few months related to agricultural feedstocks used for biofuels. We continue to encourage that updates to the LCFS program are based on science, as required by AB-32.

**Amended Feedstock Cap Doubles Down on Non-Scientific Approach**

The primary concern of KSA's remains with the proposed virgin vegetable oil feedstock cap that was included in the initial 15-Day Changes posted in August, ***especially after CARB itself noted that a cap will increase the utilization of petroleum diesel***. The current proposal limits, or caps, the amount of soybean oil that is allowed to generate credits in the program at an arbitrary 20%. Now, CARB is expanding on this cap in its Second 15-Day Changes with the inclusion of sunflower oil. Adding additional feedstocks to the 20% aggregate cap will further limit market access for additional gallons of low-carbon fuels.

***Again, based on CARB's own analysis, a cap on credit generation for vegetable oil feedstocks will lead to an increase in fossil diesel use compared to the status quo.*** While KSA agrees that all feedstocks entering the California LCFS market should maintain fidelity to the assumptions underlying their life-cycle assessment (LCA), domestic agricultural feedstocks are facing a redundant, triple penalty through an outdated indirect land use change (ILUC) score, stringent sustainability reporting requirements, and a proposed arbitrary cap on credit generation while all other feedstocks, including imports, do not face the same restrictions.

The proposed cap increases soy's carbon intensity (CI) score for amounts over the cap from the established pathway, which is based on science, to the benchmark CI, which is not based on an LCA for soy. This is effectively increasing soy's ILUC score by upwards of 50% for many pathways without a scientific basis. In fact, CARB has refused to use new data related to ILUC while at the same time effectively increasing it by an arbitrary amount.

The increase in ILUC for ag feedstocks above the 20% threshold will effectively shut them out of the LCFS. Biomass-based diesel provides proven GHG and particulate emissions benefits regardless of feedstock source. Without scientific-based CI scoring for all feedstocks, soy oil biomass-based diesel will be pushed from the marketplace, even though it provides measured emissions benefits.

North American agricultural feedstocks for biofuel production are already held to a high sustainability standard for participation in the Renewable Fuel Standard (RFS) and the Canadian Clean Fuels Regulations. Rather than adding additional sustainable North American feedstocks to its arbitrary proposed cap, CARB should consider updating carbon intensity analysis and oversight of imported feedstocks, which are not held to the same level of accountability. In essence, let the carbon intensity scoring of feedstocks that has proven effective continue to regulate what fuels are utilized in the marketplace.

While KSA is steadfast in its opposition to the virgin vegetable oil feedstock cap and the rationale used to reach this conclusion, the Second 15-Day Changes added some additional flexibility to come into compliance with the feedstock cap. If this unnecessary cap were to move forward, we appreciate CARB's acknowledgement that biofuel production facilities cannot shift production overnight.

### **Carbon Intensity Scoring Updates Overdue**

KSA remains concerned that without a comprehensive update to the Global Trade Analysis Project model for biofuels (GTAP-BIO) that CARB utilizes, soy-based feedstocks will be arbitrarily phased out of the LCFS even without the additional limitations being proposed in the Second 15-Day Changes. Current data indicates a much lower CI score for soybeans than what CARB is currently using, as growers continue to improve soil practices, limit water use, lower on-farm emissions and more. On the one hand, CARB is recommending stringent sustainability

guardrails for U.S. soy, but on the other hand is still on track to likely phase-out soy-based biofuels from credit generation by approximately 2035 or sooner.

The California LCFS has been held in high-regard for its science-based, technology neutral, emissions reductions approach. As CARB updates all other major lifecycle emissions models through this rulemaking, we once again urge action to update the GTAP-BIO model so that the most current, science-based data may be used to determine carbon intensity of all fuels in the program.

### **Sustainability Guardrails and Traceability Concerns**

KSA also remains very concerned about the additional proposed sustainability guardrails for feedstock production. One issue is the sustainability guardrails are more onerous than the specified source requirements used for waste feedstock imports. For example, palm oil in Southeast Asia has had forced labor concerns<sup>1</sup>, but CARB does not require used cooking oil derived from palm to track social or economic sustainability. Concerningly, petroleum also does not have to track these criteria. CARB's proposal makes it administratively easier to use non-sustainable petroleum<sup>2</sup> in the state than biofuels that have lower CI scores and are produced from sustainable feedstocks grown in the United States. This imbalanced approach will result in an imbalance in feedstocks used under the program. And of course, land use change that these guardrails are purported to prevent is already captured in the ILUC score, which makes it unclear what true purpose the additional guardrails serve.

The Second 15-Day Changes offered a bit more detail about how CARB plans to implement its reporting and requirements in terms of traceability, but we continue to have serious concerns about how this proposal would work in practice. Soybean products pass through many hands before final use and the supply chain is significantly different than other biofuels feedstocks. A soybean is grown on a farm, transported to a grain elevator, then must reach a soybean processor to be separated into soybean oil and soybean meal (crushed). The meal and oil components can then be delivered to another location to end users, like a biodiesel plant.

This is much different than the same farmer potentially delivering his corn directly from the field to a local ethanol plant where all processing steps are combined into one.

Because of this, ensuring the identity preservation of a soybean is not easily accomplished. Soybeans are a bulk commodity, and infrastructure in the U.S. was not developed to segregate subunits of the crop. This bulk handling system based on comingling is one of the inherent advantages the United States has as it reduces transportation, and subsequently on-ground emissions to deliver the feedstock to fuel producers.

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<sup>1</sup> <https://apnews.com/article/virus-outbreak-only-on-ap-indonesia-financial-markets-malaysia-7b634596270cc6aa7578a062a30423bb>

<sup>2</sup> <https://www.frontiersin.org/journals/public-health/articles/10.3389/fpubh.2022.858512/full>

If CARB insists on agricultural feedstock traceability, then it should reward sustainable practices beyond what is already assumed in the LCA, or drop ILUC factor from CI scoring to avoid double penalizing feedstock growers.

## **Recommendations to CARB**

As CARB finalizes its update to the LCFS, KSA aligns itself with the American Soybean Association (ASA) and other industry recommendations that will prevent an increase in fossil diesel use, improve carbon intensity calculations, and maintain market access for sustainable agricultural feedstock providers.

First, CARB should not apply the vegetable oil feedstock cap proposal to North American feedstocks. As noted above, these feedstocks are already subject to guardrails to ensure production on land that has not been converted since 2008. The RFS was designed specifically to prevent land conversion for biofuel production, and U.S. Department of Agriculture (USDA) data shows a decrease in farmland over the same period.

Second, CARB should convene an expert working group to consider issues related to the sustainability provisions and indirect land use change. CARB has utilized working groups in the past to analyze complex issues related to the LCFS and this is no different. Through meetings with CARB staff and board members, decisions are being made using competing schools of thought. Gathering experts to coalesce around an agreed upon **science-based approach** moving forward would ensure that CARB is utilizing the best information available. We recommend that this expert working group convenes in 2025 and provide recommendations by October 2026.

Lastly, CARB must undertake a comprehensive update of the GTAP-BIO model for soybean oil used in biofuel production. Without using the most up-to-date and accurate data, CARB is doing a disservice to the feedstock producers and California's citizens by calculating carbon intensity scores not rooted in fact. Through CARB's own analysis we know that basing decisions off old data will lead to more—not less—emissions in the California transportation sector.

## **Conclusion**

Kansas soybean farmers are proud to play a part in the growth of cleaner, low-carbon fuels industries like biodiesel and renewable diesel. It is critical that CARB finalizes updates to the program in a way that does not arbitrarily exclude American agricultural feedstocks through policies that are not science-based and run afoul of CARB's mandate, including capping vegetable oil feedstocks and applying onerous sustainability guardrails that add cost without rewarding farming practices that lower CI.

CARB's Second 15-Day Changes did not address any of the fundamental issues raised by soybean farmers in the first 15-Day Changes and fails to acknowledge the potential unintentional consequences of a feedstock cap outlined by its own employees only a few months before. CARB is required under the law to achieve the maximum technically feasible

and cost-effective reductions in GHGs. The two most recent 15-Day Changes show a lack of willingness to achieve the statutory obligations set forth in AB-32.

Farmers across Kansas remain eager to continue working with CARB to support the role of agriculture in diversifying the fuel supply while reducing GHGs and increasing clean air in California and beyond. On behalf of Kansas soybean farmers, we appreciate the opportunity to comment and look forward to collaborating with CARB and other relevant stakeholders on implementation of policies that expand the use of soy-based biofuels and market opportunities for America's soybean farmers.

Sincerely,

A handwritten signature in black ink, appearing to read "Kaleb Little", written in a cursive style.

Kaleb Little  
Chief Executive Officer  
Kansas Soybean Association