



MONTANA RENEWABLES™

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Via electronic submission to: <https://ww2.arb.ca.gov/lispub/comm/bclist.php>

Dr. Steven Cliff
California Air Resources Board
1001 I Street
Sacramento, CA 95814

RE: Comments of Montana Renewables, LLC on CARB's Second Notice of Proposed Modifications (15-Day Changes) to Proposed Low Carbon Fuel Standard Amendments

Dear Dr. Cliff,

Montana Renewables, LLC ("MRL" or "the Company") hereby provides comments on the California Air Resources Board's ("CARB") second notice of proposed modifications (15-day changes) to the California Low Carbon Fuel Standard ("LCFS") amendments (hereafter referred to as the "Second 15-Day Changes"). As noted in our prior comments¹, we remain generally supportive of the more stringent carbon intensity ("CI") targets and 9% "stepdown" included in the proposal and encourage CARB to finalize these aspects. We are disappointed, however, that the specific concerns that we (among many others) raised in response to CARB's first notice of 15-day changes have largely gone unanswered in the Second 15-Day Changes. We briefly summarize and re-state these concerns below and ask that CARB continue to consider these matters in deliberations on this rulemaking as well as future amendments to the LCFS program.

- **Remove or Defer Implementation of Plant Oil Credit Caps:** We continue to believe that CARB's imposition of "caps" on credit-generation for biomass-based diesel produced from certain plant oil feedstocks (soy, canola and - now - sunflower oil) is arbitrary, capricious and in contravention of the goals of the LCFS program. Such caps have not been sufficiently vetted through a public process with an opportunity to weigh and analyze the operational and commercial impacts on affected stakeholders. Furthermore, these caps are wholly unnecessary in light of declining annual CI standards that will naturally discourage such feedstocks over time, especially when coupled with CARB's proposed sustainability requirements that raise the bar for feedstock eligibility. And while we appreciate that the Second 15-Day Changes have clarified the three-year deferral available for existing biomass-based diesel pathway holders, we continue to believe that this deferral period is far too short to avoid or even minimize material disruptions to producers' investments and longer-term plans incorporating the use of plant oils. Maintaining a well-rounded feedstock mix is vital for the safe and efficient operation of a biomass-based diesel refinery; CARB's decision to retain and expand the proposed 20% credit-eligibility cap risks punishing producers for doing so. For all of these reasons, we urge CARB to withdraw the proposed caps on plant oil-based biomass-based diesel eligibility.

¹ MRL previously provided comments on the proposed Low Carbon Fuel Standard ("LCFS") amendments by letter dated February 20, 2024 (<https://www.arb.ca.gov/lists/com-attach/6934-lcfs2024-WjcHbgBvV3ADZF18.pdf>), on the California Air Resources Board's ("CARB") related public workshop by letter dated May 10, 2024 (<https://ww2.arb.ca.gov/form/public-comments/submissions/11501>), and on CARB's first 15-day notice by letter dated August 27, 2024 (www.arb.ca.gov/lists/com-attach/7571-lcfs2024-Uz5TOI0yVnECZQhm.pdf).

- **CARB Should be Sending Stronger Signals in Support of SAF:** We are disappointed that the Second 15-Day Changes do not include any revisions or changes intended to encourage Sustainable Aviation Fuel (“SAF”) sales in California. We believe that concrete, well-defined measures are needed to incentivize SAF and level the playing field with other renewable fuels. We intend to continue to engage with CARB to emphasize the critical need to support this emerging fuel sector; however, there is still time for CARB to implement at least a modest change that would send an important investment signal. CARB should remove the applicability of the Auto Acceleration Mechanism (AAM) to the table of annual jet fuel CI benchmarks. This would help ensure that LCFS credit generation opportunities for SAF will proceed predictably, without being subject to the dynamics of an LCFS credit bank that is well beyond the ability of the nascent SAF market to influence.
- **Credit True Up Opportunities Should Be Finalized and Implemented Immediately:** MRL supports CARB’s proposed addition of a credit true up opportunity in Section 95488.10(b) of the LCFS regulations. We believe this justifiably rewards producers whose validated/verified CI scores outperform their previously registered CI scores, including temporary pathway CIs. We continue to believe that CARB should allow retroactive credit generation as early as the 2024 annual Fuel Pathway Report (for the data reporting period covering 2023 and 2024), since verification of such report data will be completed after the effective date of this rulemaking.
- **CARB Should Finalize Sustainability Requirements and Provide Additional Time for Implementation:** As an ISCC-certified producer of SAF, MRL is supportive of CARB’s inclusion of sustainability requirements in the LCFS program. However, in light of the substantial engagement that will be needed with stakeholders in affected agricultural supply chains – the vast majority of whom are not directly regulated under the LCFS – we urge CARB to proceed at a reasonable pace and provide at least one additional year to the proposed phase in periods applicable to existing certified biomass pathways (including soy and canola) under Section 95488.9(g) of the LCFS regulations. CARB should also commit to a stakeholder outreach and education program that would begin in early 2025, to assist regulated fuel producers with communicating new requirements to their feedstock suppliers (and those in the supply chain upstream of them).
- **CARB Should Clarify the Proposed Cut-Off Date for New Biomass-Based Diesel Pathways:** We reiterate our prior concerns that the proposed cut-off provisions for new biomass-based diesel pathways (if certain conditions are met) should be clarified to avoid deterring investments in low carbon fuels that CARB still desires to incentivize. Specifically, CARB should confirm that the proposed cut-off (1) does not apply to SAF, even if produced by a biomass-based diesel producer; and (2) does not prevent routine modifications of existing biomass-based diesel pathways (including but not limited to new inputs; CI scoring changes following an operational CI verification; or changes resulting from the adoption of a new version of CA-GREET or an alternative emissions model).

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Thank you for considering these comments. We look forward to engaging further with CARB staff on this rulemaking and in the future. Please do not hesitate to contact us with any questions.

Regards,

Greg Staiti
Compliance Director, MRL