



June 24, 2022

California Air Resources Board  
1001 I St.  
Sacramento, CA 95814

*Submitted via <https://ww2.arb.ca.gov/applications/public-comments>*

**RE: CARB 2022 Draft Scoping Plan**

Chair Randolph:

The above organizations would like to thank the California Air Resources Board (“CARB”) for the opportunity to comment on the 2022 Draft Scoping Plan (“Draft”) and for the hard work that the staff put into the Draft.

We are a diverse group of energy stakeholders who are all integral partners in the transition to a decarbonized California. The organizations represented collectively here have all been working on decarbonization and expanding the use of low-carbon fuels to replace fossil fuels in the industry. Moving forward, we are happy to be a resource and to provide the expertise that we have gained through decades in the industry.

We are supportive of the Draft’s “Proposed Scenario” and agree that the transition away from petroleum-based fuels will take time, private investment, incentives, and market certainty. While the Proposed Scenario is largely responsive to many of our concerns, below, we outline a few issues in need of additional clarity.

**Support for the Proposed Scenario**

As stated above, we greatly appreciate the CARB staff’s efforts in developing the Proposed Scenario and the overall Draft, which includes extensive amounts of data and analysis. We agree that aggressive action is needed to ensure that California reaches the 2030 climate goals laid out in the 2017 Scoping Plan, as well as to reach the longer-term goals articulated in the Draft.

CARB notes that to support the transformation needed, we must build a robust clean energy production and distribution network to completely shift away from fossil-based fuels. The Draft also states that it will be necessary to transition existing energy infrastructure to produce and accommodate zero-carbon electricity and hydrogen, and to utilize biogas resulting from wildfire management or landfill and dairy operations, among other substitutes.



We agree that this transition will take time and large amounts of both public and private investment to be successful. We also agree that it is imperative for the Scoping Plan to continue to incentivize private investment in infrastructure and transition fuels. Additionally, market certainty within CARB regulations is key to enable those investments; if not, industry will be extremely hesitant to make them. Frequent changes in regulation or the regulatory approach will significantly hamper infrastructure investment, pushing us further away from our decarbonization goals.

While the Draft is generally reflective of the need for incentives and market certainty, we suggest a few recommendations, outlined in detail below, for the final Scoping Plan.

**2045 is a Realistic Timeline that Allows an Orderly Transition and Build-Out of Fueling Infrastructure and Vehicle Technology**

Under the Draft, there are two options for timelines to reach carbon-neutrality: a shorter timeline with carbon-neutrality by 2035 and a longer timeline with carbon-neutrality by 2045. The CARB staff stated, and we agree, that the Proposed Scenario of carbon-neutrality by 2045 is more feasible than the 2035 scenarios due to the longer time allotted for clean technology development and fuel deployment. We feel strongly that this longer timeframe is needed to ensure that the requisite vehicle technology and fueling infrastructure, especially for medium- and heavy-duty vehicles, is in place at scale throughout the state.

As the CARB staff emphasized in the Draft, all tools will be needed to reach our GHG and decarbonization goals. Due to this, we strongly recommend avoiding limiting the role of some fuels and technologies, as reflected in Alternative 1. Reducing greenhouse gas emissions by capturing releases of methane at facilities such as landfill and dairy methane capture while converting this waste stream to renewable natural gas (“RNG”) for use in transportation, building, and industrial applications, are vitally important to enabling the transition away from fossil fuels and toward carbon-neutrality. We fully support the Draft’s recommendation to increase dairy methane and landfill digester projects in addition to providing ongoing regulatory certainty to support those investments moving forward.

**Incentives and Market Certainty, Including Continued Expansion of the State LCFS, are Necessary to Meet Aggressive Decarbonization Goals**

The Draft notes specifically that private investment in alternative fuels will play a key role in diversifying the transportation fuel supply away from fossil fuels. The Low Carbon Fuel Standard (“LCFS”) is the primary mechanism for transforming California’s transportation fuel pool to low-carbon alternatives and has fostered a growing alternative fuel market. This is partially due to the powerful market signals from the LCFS. Fuels like renewable diesel, sustainable aviation fuel, RNG, and renewable electricity have all gained significant market shares, and continue to displace gasoline and diesel in both on- and off-road vehicles.



The above language from the Draft highlights that incentives have proven to be one of the most effective tools to meet California’s ambitious climate goals. The Draft recognizes, and we agree, that the infrastructure for zero emission vehicle (“ZEV”) fueling is not currently widespread enough to support a large-scale transition to ZEVs. Therefore, to move away from fossil fuels and to further our short-lived climate pollutant reduction goals, the use of alternative fuels is necessary. This will require significant ongoing investments from private industry. Private industry will not be willing to further invest in the expansion of alternative fuel projects, such as dairy methane and landfill digester projects, unless there is market certainty around such investments.

The Draft states that biomethane/RNG not only currently displaces fossil fuels in transportation and will largely be needed for hard-to-decarbonize sectors but will also likely continue to play a targeted role in fleets while the transportation sector transitions to ZEVs. The Draft goes on to state that CARB recently completed a detailed analysis of the emission reductions expected by 2030 and the estimated additional investment needed to reach the dairy and livestock sector methane reduction target. If the remaining reductions are met through a mix of dairy projects, then the Draft estimates that at least 420 additional projects will be necessary. That is a massive increase of dairy digester projects needed, even with half of the projects being alternative manure management.

Stricter regulation on dairy methane projects, or disincentivizing the capture of dairy methane from programs such as the LCFS, would be catastrophic to the transition away from fossil fuels, as renewable fuels sourced from dairy methane will be needed to provide such a transition. In addition to providing regulatory certainty with the LCFS, more clarity around the implementation of SB-1383 is needed to incentivize local governments and private industry to invest in renewable fuel projects throughout California. The state’s efforts must be coordinated to reach the aggressive goals laid out in the Draft.

### **Consistency Across State Programs and Goals is Necessary for Statewide Success**

Consistency across state programs, Executive Orders, regulations, and other environmental planning documents is needed to provide certainty for industry and statewide infrastructure. If there is conflicting guidance or requirements amongst various state programs or between state agencies, there will be open questions for industry that will hamper further investment into the transition. Aside from regulatory clarity, consistency within agency plans and language will largely determine the level of market certainty for private investment.

For example, as stated above, more clarity is needed on SB-1383 implementation and further incentives are needed to achieve CARB’s ambitious short-lived climate pollutant goals. We recommend that CalRecycle encourage the reduction of short-lived climate pollutants by permitting some or all of the large supply of existing landfill RNG production infrastructure to be counted under the SB-1383 framework to further incentivize the use of



cleaner fuels. Another opportunity for consistency is the Public Utilities Commissions' proposed decision under SB-1440 to incentivize landfill methane projects.

Though the Draft emphasizes the need for market certainty and strong regulatory incentives, these efforts will not be successful if regulatory implementation of programs across state agencies is not consistent with the language of the final 2022 Scoping Plan. It is extremely important that the state looks at its ambitious climate goals holistically and considers the ways in which industry will be impacted by all state actions. Additionally, unintended consequences during implementation must be accounted for and the state must be willing to adjust in those situations to meet its goals.

**Conclusion**

We would again like to thank CARB and its staff for the time and effort that went into this Draft. As the Draft recognizes, ongoing robust stakeholder engagement is key to the success of California's ambitious climate goals. We believe our organizations' experience and market expertise will prove extremely valuable to CARB as it further refines and finalizes the Draft.

Overall, we are supportive of the staff's Proposed Scenario and are encouraged by CARB's desire to provide market certainty through incentives and ongoing work to improve regulatory guidance. We would welcome the opportunity to meet with CARB staff to discuss these important issues and are happy to be a resource in any way possible.

If you or your staff have any questions regarding these comments, please feel free to reach out to John Moffatt at [jmoffatt@nmgovlaw.com](mailto:jmoffatt@nmgovlaw.com), Victoria Rodriguez at [vrodriguez@nmgovlaw.com](mailto:vrodriguez@nmgovlaw.com), or Joel Aurora at [jaurora@nmgovlaw.com](mailto:jaurora@nmgovlaw.com).

Sincerely,

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*Bryan J. Nudelbacher*

**Director of Business Development  
U.S. Gain, a division of U.S. Venture, Inc.**

A handwritten signature in black ink, appearing to read "Todd R. Campbell".

**Todd R. Campbell  
Vice President, Public Policy and Regulatory Affairs  
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