RIVIAN

October 16, 2024

SUBMITTED ELECTRONICALLY AT:
www.arb.ca.gov/lispub/comm/iframe_bcsubform.php?listname=lcfs2024

Re: Second Notice of Public Availability of Modified Text and Availability of Additional Documents and Information for the Proposed Low Carbon Fuel Standard Amendments

To Chair Randolph, Honorable Members of the California Air Resources Board ("CARB"), and Staff,

Rivian Automotive, LLC, ("Rivian") appreciates the opportunity to submit 15-day comments in response to the additional modifications released on October 1 as part of the proposed Low Carbon Fuel Standard ("LCFS") amendments. **Rivian remains strongly supportive of the LCFS and the current rulemaking to update the regulation.**

Residential Charging Base Credits

Rivian continues to be extremely encouraged and supportive of the proposal to allow EV manufacturers ("OEMs") to share in base credit generation. Our prior comments highlighted several important benefits of this proposal, and we reiterate those points here by reference.[1] Achieving California's bold EV goals will require every tool at the state's disposal as well as collaboration across industries and stakeholders. CARB's proposal allows for just that, creating opportunities for both automakers and utilities to participate in growing the EV market in ways that reflect their unique market positions.

Final OEM project decisions will necessarily need to reflect the Executive Officer's determination on the allocation of credits as well as market prices and resulting revenue. Nonetheless, Rivian is already considering several possibilities for market-enhancing investments, including expansion of the Rivian Adventure Network. Consider that other OEMs would also be capitalized to fund new initiatives, and it quickly becomes clear why this proposal is potentially so effective and powerful. Automakers will be heavily incentivized to use their base credit revenue to innovate and compete for EV sales.

[1] Rivian, "Re: Notice of Public Availability of Modified Text and Availability of Additional Documents and Information for the Proposed Low Carbon Fuel Standard Amendments," August 27, 2024, available at www.arb.ca.gov/lists/com-attach/7438-lcfs2024-UCIGaVQjUGpWMQFv.pdf.

For instance, the CARB proposal also creates the conditions to address the issue of take-home fleet vehicles. Unlike depot-charged fleets, existing rules that allocate all base credits to utilities prevent take-home fleets from capturing credits from residential charging activity. This is a key blind spot of the LCFS. The cost-benefit analyses for both the ACT and ACF regulations assume fleets will capture charging credits to help 'pencil' the business case for electrification. The proposed changes to base crediting open the door to potential solutions. For example, EV manufacturers could partner with take-home fleet customers to ensure that credit value flows to the fleet owner, whether in the form of an upfront purchase rebate, ongoing dividend, or other benefit. CARB's proposal would facilitate nimble innovation that current program rules simply do not allow.

The latest modifications help solidify aspects of the regulatory language. Explicitly including "OEMs of battery-electric and plug-in hybrid electric vehicles" as opt-in entities in §95483.1 (a)(1)(D) affirmatively positions OEMs as opt-in entities for purposes of base crediting. We also welcome amended language providing for an approval process for administrative costs that exceed 7 percent of total spending.

We find that further clarification of the regulation would be valuable, however. Aspects of the currently proposed regulatory language appear potentially inconsistent and could cause confusion or misinterpretation regarding vehicle and OEM eligibility.

- §95483 (c)(1)(B) specifies that the Executive Officer may direct base credits to OEMs of "***light-duty*** battery-electric or plug-in hybrid electric vehicles" (emphasis added), a term defined elsewhere in the regulation as a vehicle with a gross vehicle weight rating of less than 8,500 pounds.
- §95483.1 (a)(1)(D) makes no such distinction in identifying which OEMs may opt in to the program, referencing simply OEMs "of battery-electric or plug-in hybrid electric vehicles…"
- The Summary of Proposed Modifications refers to "residential" EVs.[2]

This is an important point of clarification because several automakers, including Rivian, manufacture passenger EVs with a GVWR exceeding 8,500 pounds. As written, §95483 (c)(1)(B) could raise questions about applicability and implementation for automakers of passenger vehicles that straddle the light- and medium-duty boundary. A distinction along these lines

[2] California Air Resources Board, *Second Notice of Public Availability of Modified Text and Availability of Additional Documents and/or Information: Proposed Low Carbon Fuel Standard Amendments*, October 1, 2024, p. 5, available at www.arb.ca.gov/sites/default/files/barcu/regact/2024/lcfs2024/2nd_15day_notice.pdf.

would also be inconsistent with both our understanding of the regulatory intent and the longstanding practice of calculating base and incremental credits as a function of residential charging load irrespective of vehicle type.

We recommend avoiding ambiguity by using consistent language throughout. CARB could accomplish this, for example, through a technical amendment to §95483 (c)(1)(B) as suggested here with strikethrough and underlined text.

> *Base Credits to OEMs.* The Executive Officer may direct up to 45% of base credits to eligible OEMs of ~~light-duty~~ battery- electric or plug-in hybrid electric vehicles, if the statewide share of all new zero emission vehicle sales for model year 2024 zero emission vehicles certified under California Code of Regulations, title 13, section 1962.2 is less than 30 percent of total ~~light-duty~~ vehicle sales <u>subject to that regulation</u> for all OEMs in California, based on data reported pursuant to that regulation.

Avoiding reference to specific vehicle classifications would ensure consistency with §95483.1 (a)(1)(D) and the base credit calculation methodology.

Alternatively, CARB could use a future guidance document to resolve any ambiguity.

Third-Party Verification of Electricity Transactions

Rivian welcomes several aspects of the latest modifications. Specifically, Rivian appreciates changes to the third-party verification provisions that:

- Delay for one year the implementation of verification requirements for electricity transactions.
- Allow verifiers to conduct risk-based site visits at their discretion to sites other than the central records facility.

These changes provide important flexibility and lead time to implement new requirements.

That said, **Rivian continues to believe that CARB should exempt all residential charging activity from verification requirements.** We remain concerned that third-party verification of residential charging raises potential consumer privacy concerns and would at minimum impose a costly burden on LCFS participants without commensurate benefits in return. The additional costs threaten to further erode the already challenging economics of incremental credit generation. The implications of potentially disincentivizing automaker generation of incremental credits include relatively more carbon-intense EV charging and diminished market pressure to accelerate the development of renewable electricity generation.

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CARB should make a small modification to the final regulatory language in §95500(c)(1)(E)(1) (new text underscored).

> EV Charging except as specified under 95491(d)(3)(A) and 95491(d)(3)(B).

This would exempt both metered and non-metered residential charging from third-party verification.

Rivian greatly appreciates the engagement of CARB staff with stakeholders and this opportunity to provide feedback on the latest modifications. Please do not hesitate to reach out with any questions about our comments.

We look forward to strongly supporting the proposed amendments and the LCFS more broadly at the November hearing.

Sincerely,

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