

To: Cheryl Laskowski
From: Jeremy Martin
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Subject: February 22, 2023 workshop: 1 of 2

Engage with affected communities to ensure the LCFS supports environmental justice goals.

Because of the broad reach of the LCFS and basis in lifecycle analysis it can be confusing and opaque. However, the fuel supply chain touches everyone, and crafting equitable fuel policies requires meaningful public participation. To make this work, CARB needs to seek input grounded in the real problems that affect people and their communities. In the development of the most recent scoping plan CARB improved its community engagement process through collaborative process with the Environmental Justice Advisory Committee. The LCFS is a key mechanism to implement the goals of the scoping plan, and to make sure implementation realizes the commitments of the scoping plan CARB must continue engagement with all stakeholders. To that end, we request that CARB host an environmental justice (EJ) workshop in which the agency presents and invites EJ-informed stakeholders to present scenarios and potential policy mechanisms that address the concerns of EJ communities—and an opportunity for environmental justice communities to be in dialogue with the agency.

Prioritize durable emissions reductions over a high nominal target based on bogus credits.

CARB must decide whether to focus on meaningful climate action or high nominal targets that don't achieve much. As described below and in separate comments on lipid-based fuels there are several policy questions related to lipid-based renewable diesel and biomethane that will have a large impact on program stringency at any nominal carbon intensity (CI) reduction target. If CARB fails to constrain the flood of bogus credits associated with shuffling federal compliance with the Renewable Fuel Standard into California, and indefinitely recognizes exaggerated claims out of avoided manure methane pollution from across the country, it will need to set a very high nominal CI reduction target to bring LCFS credit values back to a point where they provide meaningful support for real investment and innovation in clean fuels, possibly 30 percent CI reduction or more by 2030. If instead CARB puts in place common sense safeguards constraining excessive and unbalanced compliance from lipid-based fuels and phases out credits for avoided methane pollution in favor of holding manure lagoons responsible for their own pollution through regulation, even a 20 percent CI reduction target in 2030 may effectively be quite stringent. The LCFS should prioritize durable emissions reductions that will take sustained investment in more sustainable feedstocks and innovative fuel production processes. California's clean transportation future can't be powered by siphoning off soy-based biofuels from the rest of country or shaky emissions reduction claims from manure lagoons across the country. Setting high short-term targets without safeguards will raise compliance costs and undermine the integrity of the policy. We urge CARB to be stringent in program implementation rather than setting nominally higher targets that are based on bogus credits.

Direct regulation of manure methane deserves full public consideration.

In previous comments I shared my views on the many problems associated with the large and distortionary subsidies for avoided methane pollution associated with the current LCFS treatment of manure methane¹. While my views have not changed, I will not repeat those arguments here. Instead, I will focus on issues surrounding direct regulation of manure methane as authorized in SB 1383 as soon as 2024.

The questions of whether, when and how CARB will regulate manure methane are important to many stakeholders and demand a full public hearing. CARB's proposals regarding manure methane in the workshop and in its [Final Analysis of Progress toward Achieving the 2030 Dairy and Livestock Sector Methane Emissions Target](#) suggest it has no immediate plans to directly regulate manure methane emissions. In the last workshop, there was some back and forth in comments from different stakeholders about whether there are grounds for such a decision, particularly whether the risk of emissions leakage would justify such a course. CARB staff did not directly address these comments and questions or illuminate their own views. CARB's proposal to credit avoided methane emissions within the LCFS until 2040 suggests that CARB has no intention of implementing regulations until 2030 at the earliest, and even then CARB proposes to give pathway holders a full 10 years of avoided methane credits even once a regulation was enacted. If this is the case, CARB should be clear about its assumptions and not force commenters to evaluate policy options based on inferences.

CARB's decision on direct regulation of manure methane is very consequential and has important implications for the administration of the LCFS. If CARB believes that circumstances warrant delaying the implementation of regulations, it should explain its evidence and analysis and take public comment on the decision. If leakage is a significant barrier to regulation, CARB should consider and seek comment on alternative means to address potential leakage. The LCFS rulemaking process may not be the appropriate venue for consideration of manure methane policy decisions, but until such a public process has been held and a determination has been made, CARB should not proceed with LCFS amendments that implicitly reflect an assumption about the outcome of this process.

The lion's share of credits associated with manure biomethane pathways are for avoided methane emissions which are tied directly to an assumption about the future regulatory landscape. It is inappropriate to commit to honor avoided methane emissions through 2040 before a determination on regulation has been made which could and should render this lifecycle inaccurate and inappropriate. If CARB intends to finalize the LCFS amendments prior to making such a determination, it should clarify explicitly how LCFS pathway including avoided methane emissions will be adjusted based upon any regulatory decisions and move promptly to implement regulations as authorized by SB 1383.

¹ December 21, 2022. Comments on November 9th workshop: 3 of 3 on phasing out avoided methane credits.

Online at www.arb.ca.gov/lists/com-attach/94-lcfs-wkshp-nov22-ws-ViNQNFzAAxXPAJn.pdf.

August 8, 2022. Comments to CARB on July 7th LCFS workshop. Online at www.arb.ca.gov/lists/com-attach/65-lcfs-wkshp-jul22-ws-UCUGY1cIUV1VMAlm.pdf.

April 8, 2022. Comment on Workshop on Methane, Dairies and Livestock, and Renewable Natural Gas in California. Online at www.arb.ca.gov/lists/com-attach/19-dairywkshp220329-ws-VCFXMIQmWVWVNFQ1.pdf.

January 6, 2022. Manure biomethane analysis. Online at www.arb.ca.gov/lists/com-attach/24-lcfs-wkshp-dec21-ws-AHVSN1MhVlpXNQRI.pdf.

Credits for CCS should exclude enhanced oil recovery and all project-based crediting for CCS should be paused.

The LCFS amendment process should bring the LCFS into alignment with the scoping plan and with legislation enacted since the last set of amendments. The legislature has clearly indicated through SB 1314 and SB 905 that CARB should not support or recognize emissions reductions associated with carbon dioxide captured for use as enhanced oil recovery (CCS-EOR). CARB should exclude this use of sequestered carbon from credit generation within the LCFS whether it occurs within California's borders or outside.

Additionally, SB 905 instructed CARB to develop a CCS program with protections for environmental justice communities. CARB should conclude the SB 905 rulemaking process prior to approving any new LCFS projects or pathways involving CCS to ensure these are consistent with the SB 905 program and do not undermine the protections required by this legislation.

The LCFS should not support SMR Hydrogen in Refinery Communities

The scoping plan anticipates a substantial role for hydrogen in California's future. When produced cleanly and safely and used in strategic, climate-aligned applications, hydrogen can play a secondary but still significant role in helping the state meet its economy-wide climate goals. However, based on material presented at the workshop it seems likely that a substantial portion of anticipated hydrogen production will be through increased use of existing steam methane reforming (SMR) operations associated with oil refineries, "decarbonized" by book-and-claim accounting for remote sources of biomethane (many out of state). This kind of paper compliance with the LCFS will not reduce GHG emissions or co-pollutants in California, and increased use of SMR units at oil refineries would instead increase pollution in already overburdened refinery communities. LCFS support for any hydrogen projects in refinery communities should only be approved after a thorough public engagement process and assessment of the cumulative environmental burden they impose on adjacent communities. Increasing reliance on SMR hydrogen will not support investment in the technology California needs to actually meet its scoping plan objectives and climate goals in a durable manner and will increase harm to overburdened refinery communities.