

February 20, 2024

Honorable Chair Liane Randolph and Honorable Board Members
Low Carbon Fuel Standard Program
California Air Resources Board
1001 I St., Sacramento, CA 95814

Sent via email to LCFSworkshop@arb.ca.gov

Re: Proposed Low Carbon Fuel Standard Amendments

Chair Randolph and Members of the Board:

EVgo appreciates the opportunity to comment on the California Air Resources Board's (CARB) amendments to the Low Carbon Fuel Standard (LCFS) proposed in the agency's Initial Statement of Reasons (ISOR). Headquartered in Los Angeles, EVgo is one of the nation's largest public fast charging providers for electric vehicles (EVs) with a mission to expedite the mass adoption of EVs by creating a convenient, reliable, and affordable EV charging network that delivers fast charging to all drivers.

The LCFS is one of California's most effective decarbonization tools. It supports critical investments in EV charging infrastructure needed to meet Advanced Clean Cars (ACC) II and other CARB zero-emission vehicle (ZEV) regulations. Unlike other California policies that incentivize EV charger deployment through one-time capex support, the LCFS provides critical ongoing support for EV charger operations, including maintenance, in a manner that enhances the EV charging experience for all drivers.

It is imperative that CARB strengthen the LCFS in this rulemaking to further accelerate ZEV adoption and drive investment in clean fuels. EVgo appreciates the measures CARB has proposed to raise the ambition of the program and recommends CARB take additional action to ensure that the LCFS continues to bolster the deployment of EV charging across the state, as summarized below:

1. EVgo supports the increased stringency of the annual carbon intensity (CI) targets and the introduction of the auto-acceleration mechanism (AAM) to deliver more greenhouse gas (GHG) emissions reductions in line with state climate goals.
2. CARB can reduce the risk of excess credits and support greater GHG emissions reductions through an increase in the stringency of the 2025 CI step down by at least seven percentage points.

3. CARB can support greater GHG emissions reductions by allowing the AAM to be triggered in 2026 with an effective date in 2027.
4. CARB can strengthen the light-duty fast charging infrastructure (FCI) credit provisions to support the deployment of public fast charging infrastructure necessary to meet state climate and equity goals.
5. CARB should consider overlapping existing California Department of Food and Agriculture (CDFA) Division of Measurement Standards (DMS) weights & measures regulations before the adoption of new verification requirements for electric fuels in the LCFS.

1. EVgo supports the increased stringency of the annual CI targets and the introduction of the AAM to deliver more GHG emissions reductions in line with state climate goals.

EVgo directionally supports the more ambitious near-term annual CI targets proposed in the ISOR, including the revised 30% CI target in 2030. As CARB plainly stated in its November 2022 Workshop preceding this rulemaking, the LCFS is overperforming.¹ Increasing the stringency of near-term CI targets is one important step CARB can take to improve the health of the program and account for the current pace of low carbon fuel adoption.

Additionally, EVgo supports the adoption of the AAM to reduce the risk that the LCFS will continue to overperform in future years. The AAM will ensure that the program continues to send a clear investment signal to low carbon fuel providers and ensure that the LCFS accommodates unforeseen advances in the decarbonization of California’s transportation fuel pool. Furthermore, the AAM can set a helpful precedent for other jurisdictions seeking to adopt and implement successful clean fuel standards that support climate, air quality, and economic development goals.

2. CARB can reduce the risk of excess credits and support greater GHG emissions reductions through an increase in the stringency of the 2025 CI step down by at least seven percentage points.

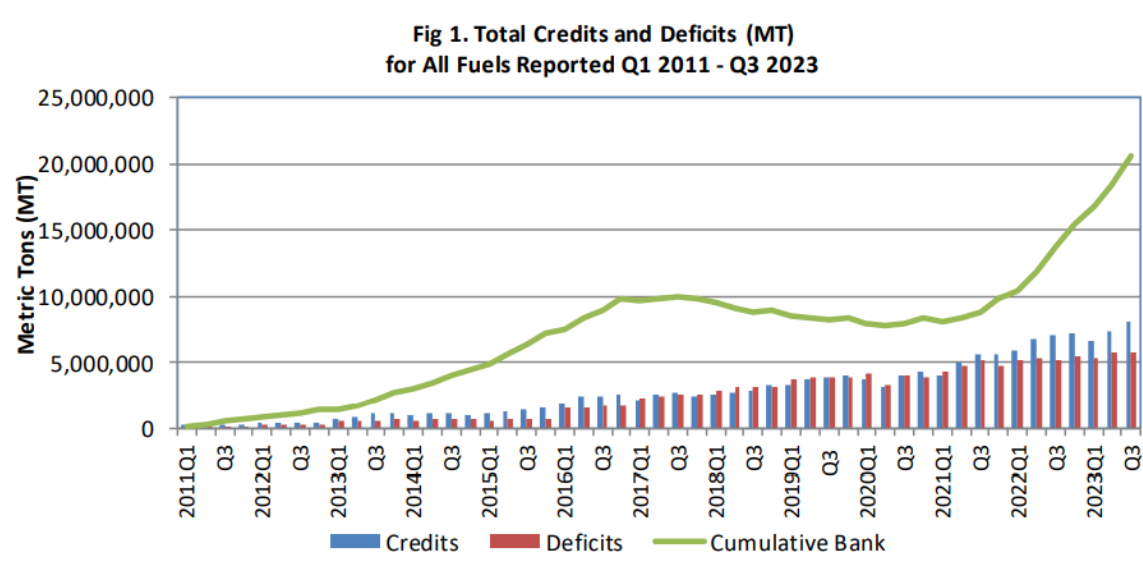
While EVgo directionally supports the 2025 CI step down as a critical measure to stabilize the LCFS credit market, EVgo asserts that CARB can feasibly support a more ambitious step down of at least seven percentage points – leading to a 2025 CI target of at least 20.75% below base year CI target.²

¹ <https://ww2.arb.ca.gov/sites/default/files/2022-11/LCFSPresentation.pdf>

² Sheehy and Yan, *Analyzing Future Low Carbon Fuel Targets in California*, released February 2024, available at: <https://static1.squarespace.com/static/5b57ab49f407b4a7ffa44ffa/t/65cd3c74d1a72f445cdc7a7e/1707949173143/ICFReport2024.pdf>

The ISOR clearly demonstrates that production of low carbon fuels has far exceeded CARB’s estimates in 2018 when the current annual CI targets were established.³ CARB’s most recent quarterly data summary for Q3 2023 illustrates that the LCFS credit bank exceeded 20 million credits for the first time – growing unabated as decarbonization of California’s transportation fuel pool outpaces the ambition of the program.⁴ Increasing the stringency of near-term CI targets is vital for correcting program overperformance and providing greater stability to the credit bank.

Moreover, CARB has revised the baseline CI value for ultra low sulfur diesel (ULSD) upward from 100.45 gCO₂e/MJ to 105.76 gCO₂e/MJ in Appendix A-1 of the Proposed Regulation Order (PRO).⁵ This adjustment would partially offset the benefit of CARB’s proposed five percent CI step down in 2025 by lowering the stringency of the program and increasing the risk that the credit bank continues to grow – primarily from credits generated by renewable diesel. If CARB proposes to make this adjustment to the baseline ULSD CI value, raising the ambition of the 2025 CI step-down by at least seven percentage points will help avoid the risk of sustained overperformance and better align with California’s climate policy objectives.



³ ISOR at 22-23.

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https://ww2.arb.ca.gov/sites/default/files/classic/fuels/lcfs/dashboard/quarterlysummary/Q3%202023%20Data%20Summary_013124.pdf

⁵ https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2024/lcfs2024/lcfs_appa1.pdf

3. CARB can support greater GHG emissions reductions by allowing the AAM to be triggered in 2026 with an effective date in 2027.

EVgo asserts that CARB can further support the ambition of California’s decarbonization goals by allowing the AAM to be triggered in 2026 with a potential earliest effective date in 2027 as opposed to the currently proposed 2027 trigger year and effective date in 2028. CARB has taken care to develop a transparent, easily understandable mechanism to address one of the central challenges of the LCFS today and into the foreseeable future: “market overperformance.”⁶ It is not apparent why CARB would purposefully delay the implementation of this conditional market mechanism at a time when the LCFS credit bank continues to reach unprecedented levels and when the transportation sector remains the largest contributor to California GHG and criteria pollutant emissions. Allowing the AAM to trigger earlier will support more ambitious, achievable, and near-term emissions reductions and send a clear market signal to invest further in clean fuels.

4. CARB can strengthen the light-duty FCI credit provisions to support the deployment of public fast charging infrastructure necessary to meet state climate and equity goals.

While EVgo appreciates several of the amendments made to strengthen the light-duty FCI provisions in the LCFS, including the minimum 150 kW charger capacity requirement and a revised FCI cap formula, EVgo respectfully encourages CARB to modify the proposed FCI provisions to ensure they are aligned with the trajectory of California’s EV goals. As noted by Earthjustice⁷, the Natural Resources Defense Council⁸, CalETC and the Electric Vehicle Charging Association⁹, and CARB itself¹⁰, it is imperative that the LCFS support California’s climate policy goals by supporting the adoption zero-emission vehicles wherever feasible. The light-duty passenger vehicle market is one sector that is primed for rapid growth in coming years driven by ACC II requirements, and EVgo provides the following recommendations to ensure FCI continues to play a complementary role in EV market development:

- a. Preserve the existing pool of light-duty FCI credits at 2.5% of prior quarter deficits starting in 2026 instead of reducing the available pool of credits to 0.5% of prior quarter deficits. Updated modeling from California Energy Commission’s (CEC) AB 2127 state EV

⁶ ISOR at 22.

⁷ Earthjustice Comments on May 31 Community Workshop at 7, available at: https://ww2.arb.ca.gov/system/files/webform/public_comments/4041/20230614-Earthjustice%20-%20LCFS%20Community%20Meeting%20Comments.pdf

⁸NRDC Recommendations for Updates to the Low Carbon Fuel Standard at 12, available at: https://ww2.arb.ca.gov/system/files/webform/public_comments/4036/NRDC%20Letter%20to%20CARB%20on%20LCFS%20Updates_061423_final.pdf

⁹ CalETC and EVCA Comments on Feb 22, 2023 workshop at 2. Available at: <https://www.arb.ca.gov/lists/com-attach/86-lcfs-wkshp-feb23-ws-AGMHYFA9V2FVJwJh.pdf>

¹⁰ ISOR at 22.

charger demand assessment plainly demonstrates that substantial near-term deployment of direct current fast charging (DCFC) infrastructure is needed to support 2030 charging needs established by ACC II.¹¹ The benefits of FCI are not limited to disadvantaged, low-income, or rural communities: given that California needs over 37,000 fast chargers across the state by 2030 to meet ACC II goals, EV charging developers seek to deploy charging ahead of demand and may rely on short-term FCI credits when charger utilization at a site is initially low.

FCI credits are also critically important for supporting ongoing operating costs for fast chargers that enhance reliability and customers' charging experience. With charging experience issues gaining traction as a state¹² and national¹³ priority necessary for bolstering consumer confidence in EV adoption, now is not the time to pull back on this critical source of funding for ongoing O&M costs.¹⁴ Regrettably, reducing the size of the available FCI credit pool may ultimately deter investment in DCFC infrastructure where expected charger utilization may not be sufficiently robust – including low-income, disadvantaged, and rural communities.

- b. *Adopt the U.S. Treasury Department (TD) and Internal Revenue Service (IRS) definition of “non-urban census tracts” to establish LD-FCI eligibility for public DCFC sites in rural California communities in lieu of the current 10-mile threshold definition proposed by Staff.* In January 2024, TD and IRS released guidance on charging station location requirements to be eligible for the 30C alternative fuel vehicle refueling property credit, which was amended in the Inflation Reduction Act to encourage greater EV charging infrastructure deployment in rural and low-income communities.¹⁵ Maps were also released to clearly illustrate which rural areas would be eligible for the 30C tax credit resulting from this guidance through 2030.¹⁶ While California has clear definitions for disadvantaged and low-income communities that can readily be used to determine FCI eligibility, CARB Staff's proposal to define rural eligibility as 10 miles from the nearest public DCFC¹⁷ is arbitrary and challenging to implement because charging developers are

¹¹ Alexander, Matt, Noel Crisostomo, Wendell Krell, Jeffrey Lu, and Raja Ramesh. July 2021. Assembly Bill 2127 Electric Vehicle Charging Infrastructure Assessment: Analyzing Charging Needs to Support Zero-Emission Vehicles in 2030 — Commission Report. California Energy Commission. Publication Number: CEC-600-2021-001-CMR. Available at <https://www.energy.ca.gov/programs-and-topics/programs/electric-vehicle-charging-infrastructureassessment-ab-2127>.

¹² <https://efiling.energy.ca.gov/GetDocument.aspx?tn=252434&DocumentContentId=87440>

¹³ <https://driveelectric.gov/chargex-consortium>

¹⁴ The CEC is expected to finalize its EVSE reliability regulations pursuant to AB 2061 in 2024. EVgo recommends that CARB coordinate closely with the CEC to assess how the implementation of these regulations would affect charging stations that participate in the LCFS.

¹⁵ <https://www.irs.gov/pub/irs-drop/n-24-20.pdf>

¹⁶ <https://experience.arcgis.com/experience/3f67d5e82dc64d1589714d5499196d4f/page/Page/>

¹⁷ Appendix A-1 at 105.

constantly adding new chargers across the state. To improve clarity, provide stability, align with federal policy guidance, and encourage greater investment in public DCFC outside of California's major metro areas, EVgo recommends that CARB replace the proposed rural eligibility criteria with TD and IRS's definition of non-urban census tracts.

- c. Expand the size of eligible FCI sites beyond four chargers and 1,000 kW nameplate capacity to align with guidance from the National Electric Vehicle Infrastructure (NEVI) program minimum standards, California state agency activities, EV market trends, and an enhanced customer experience. CARB Staff proposed limiting FCI eligibility to up to four chargers per site and a nameplate capacity of no greater than 1,000 kW to provide FCI to more charging stations across the state.¹⁸ EVgo appreciates the intent of these policy provisions but asserts that limiting eligible FCI per site to four chargers and 1,000 kW is misaligned with federal, state, and market guidance. CARB references NEVI program minimum standards when justifying its proposal to increase minimum charger nameplate capacity eligibility to 150 kW¹⁹, and the NEVI guidance also plainly specifies that four ports and 150 kW charging is the *minimum* required for NEVI-eligible stations – not the maximum. CEC and Caltrans have incorporated this guidance into their first round NEVI solicitation, which encourages applicants to build charging stations well in excess of the four-port minimum on key corridors such as I-5 and I-15.²⁰

Finally, larger sites are critical to an enhanced customer experience and will be increasingly so as EV penetration continues. The growth in EV sales necessitates larger sites with faster, more convenient charging; smaller sites are more likely to lead to queuing, or customers needing to wait in line – contrary to state goals for an enhanced customer experience. It is not uncommon for new public DCFC sites to include more six or more DCFC stalls, exceeding a cumulative 1,000 kW nameplate capacity as part of network providers' ongoing efforts to elevate the customer experience. It is vital that CARB consider EV drivers' charging experience when establishing FCI guidelines and EVgo recommends that CARB remove the FCI charger limit per site and preserve the existing 2,500 kW cap on FCI-eligible DCFC sites.²¹

5. CARB should consider overlapping CDFA DMS weights & measures regulations before the adoption of new verification requirements for electric fuels in the LCFS.

CARB has proposed to require third-party verification for reporting of electricity from EV charging, including non-residential charging. EVgo supports timely, accurate reporting of fuel

¹⁸ Appendix E at 37-38. https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2024/lcfs2024/lcfs_app_e.pdf

¹⁹ *Id.* at 34.

²⁰ See slide 18-19 for more details on specific corridor charging requirements in CEC/Caltrans first round NEVI solicitation. <https://efiling.energy.ca.gov/GetDocument.aspx?tn=253051&DocumentContentId=88250>

²¹ Appendix A-1 at 99. https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2024/lcfs2024/lcfs_app_a1.pdf

transactions to maintain the integrity of the LCFS. However, CARB’s proposed regulations appear to duplicate existing CDFA DMS regulations²² that require EV chargers to meet stringent accuracy tolerances and require county weights & measures offices to regularly test EV charging equipment.

Specifically, DMS adopted regulations in January 2020 that require commercially available EV chargers to meet stringent accuracy standards – as well as other consumer protection requirements – which conform to the National Institute of Standards and Technology Handbook 44 technical standards for charging equipment.²³ These requirements, which include a +/- 5% maintenance tolerance for DC electricity as vehicle fuel, are aligned with CARB’s proposed §95491.2(a)(1)(B) which would require all meters to achieve accuracy levels of +/- 5%.²⁴ Furthermore, many county weights & measures officials are beginning to enforce compliance with these regulations by testing EV chargers in the field; if a charger is not performing within the accuracy tolerances prescribed by DMS regulation, counties can require a charger to enter maintenance until the charger’s accuracy tolerance is corrected.²⁵ Finally, EV charging providers already support continued implementation and enforcement of weights & measures regulations by paying annual device registration fees to counties where the devices are in operation.²⁶ In sum, EVgo respectfully encourages CARB to consider these existing CDFA regulations before establishing new, overlapping verification requirements for EV chargers in the LCFS.

Conclusion

EVgo commends CARB’s ZEV leadership and its continued refinement of the LCFS in confronting California’s most pressing transportation decarbonization challenges. The LCFS is one of California’s signature climate policies, and CARB is well-positioned to strengthen the ambition of the program while ensuring that it remains aligned with the agency’s core ZEV regulations and CEC’s charging infrastructure goals. EVgo looks forward to continued engagement on these topics and further development of a robust, convenient, and reliable EV charging network that benefits all Californians.

²² <https://www.cdfa.ca.gov/dms/regulations.html>

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[https://govt.westlaw.com/calregs/Document/IA5650EF3543B11ECAE2D000D3A7C4BC3?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=\(sc.Default\)](https://govt.westlaw.com/calregs/Document/IA5650EF3543B11ECAE2D000D3A7C4BC3?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default))

²⁴ Appendix A-2 at 18. <https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2024/lcfs2024/appa-2.pdf>

²⁵ https://www.cdfa.ca.gov/dms/docs/publications/2023/2023_Combined_BPC.pdf

²⁶ *Id.*

Respectfully submitted this 20th Day of February,

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