



February 20, 2024

Re: Comments on the December 19th Initial Statement of Reasons

Submitted electronically

Chairwoman Liane M. Randolph
California Air Resources Board
1001 I Street
Sacramento, CA 95814

The Clean Fuels Alliance America (Clean Fuels)¹ and California Advanced Biofuels Alliance (CABA)² appreciate the opportunity to provide comments on the December 19th proposed changes to the Low Carbon Fuel Standard (LCFS) as presented in the Initial Statement of Reasons. Clean Fuels and CABA have been longtime supporters of the state's overall climate and air quality improvement goals and have collaborated frequently with CARB staff toward achieving those goals. We continue to support California's efforts to decarbonize its economy, especially the transportation sector, with a comprehensive all-of-the-above suite of measures.

Our California member producers and marketers support over 3,900 well-paying jobs in the state and about \$960 million in economic activity each year. Further, the biodiesel, renewable diesel, and sustainable aviation fuel supplied to the state by our California and national members are collectively the single largest source of GHG reductions in the LCFS, providing nearly half³ (about 45%) of the carbon reductions since 2017, more than any other fuel including electricity, and 42% since the start of the LCFS. Our fuels have grown to the point where nearly 60% of each gallon on average of diesel fuel consumed in the state in 2023 consisted of our industry's low-carbon fossil diesel replacement fuels.⁴ Our sustainable replacements for petroleum diesel have been a major factor in driving California's continuing transformation towards being carbon neutral. In short, the LCFS would not be the success it is today, and one the state is looking to export to other jurisdictions, without the key role our diesel replacements have played. More to the point, our liquid

¹ Clean Fuels (formerly the National Biodiesel Board) is the U.S. trade association representing the entire supply chain for biodiesel, renewable diesel, and sustainable aviation fuel. The name change reflects our embrace of all the products Clean Fuels members and the U.S. industry are producing, which include biodiesel, renewable diesel, sustainable aviation fuel, and Bioheat® fuel for thermal space heating. Our membership includes over 100 farmers, producers, marketers, distributors, and technology providers, and many are members of environmental organizations supportive of state and local initiatives to achieve a sustainable energy future.

² California Advanced Biofuels Alliance is a not-for-profit trade association promoting the increased use and production of advanced biofuels in California. CABA represents biomass-based diesel (BMBD) feedstock suppliers, producers, distributors, retailers, and fleets on state and federal legislative and regulatory issues.

³ Biodiesel and renewable diesel provided almost 60% of the LCFS credits in Q3 2023. See LCFS Quarterly Data Spreadsheet (dated January 31, 2024).

⁴ Ibid.

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petroleum replacement fuels remain the only viable, large-scale, cost-effective alternatives for the next several decades to decarbonizing the most difficult-to-electrify sectors: heavy duty on- and off-road, marine, rail, and aviation.

Previous Comments

Clean Fuels and CABA have been keenly aware of how significant this rulemaking is to its members and the clean fuels industry as a whole. We have actively participated throughout the workshops in the pre-rulemaking process to provide information and perspective on how staff's proposal may impact the industry. In addition to this comment letter, please refer to our previous comments submitted for the [May 31/June 2 virtual meeting](#), the [May 23 workshop on Auto-Acceleration Mechanisms](#), and the [February 22 workshop to discuss potential changes to the LCFS](#) to address previous discussions that did not make it into the ISOR but are potentially still on the table as future modifications are considered.

Strengthen the CI Reduction Targets

Clean Fuels and CABA are generally supportive of CARB's proposal to strengthen the CI reduction targets in 2030 and 2035 but we reserve comment on the feasibility of a 2045 target due to the lack of data to support a target that far out into the future. We are also generally supportive of the addition of the step-down and auto acceleration mechanisms to provide ways to firm up credit prices as quickly as possible. We further believe that additional adjustments can and should be made to maximize the GHG reductions and benefits provided by the LCFS and the credit prices that are necessary for the clean fuels market to thrive.

Request: As further discussed in the report submitted by ICF⁵, Clean Fuels and CABA respectfully request that the Board direct CARB staff to establish:

- A Carbon Intensity (CI) reduction target between 41 - 44% for 2030.
- An initial step down of 10.5% to 11.5% in 2025 to achieve a target credit bank equivalent of two to three quarters worth of deficits.
- An Automatic Acceleration Mechanism (AAM) implementation that can be triggered in 2026, with a modification to enact the AAM when the credit bank is more than 2.5 times greater than the quarterly deficits generated in a given year.

In addition, we urge CARB to maintain the technology neutrality that has enabled the success of the LCFS program. Clean Fuels and CABA believe that this combination of revisions can further boost the effectiveness of the LCFS program.

Introduction of Sustainability "Guardrail" Provisions

Clean Fuels and CABA were surprised by the introduction of sustainability provisions in the ISOR, especially since that was the first time anyone had seen them. At no time during the informal rulemaking process did anyone have a chance to vet, workshop, or provide feedback on these provisions, which is a far cry from how CARB typically engages with its stakeholders. It is especially concerning since the implementation of these provisions will have a significant negative impact to our members as they are potentially burdensome, duplicative, and infeasible as proposed.

⁵ [Analyzing Future Low Carbon Fuel Targets in California: Response to Staff Report](#), ICF Resources, February 2024.

Our members are eager to work with CARB staff to work through the many details surrounding this topic, including but not limited to – having a proper length of time to gather and submit information, considering similar certification programs that can be modified to streamline the verification process, and planning for any potential next steps once these provisions are complied with. There must be a collaborative and transparent process to produce sustainability provisions that will meet the interests of both CARB and the clean fuels industry.

Request:

- The Board should direct CARB staff to assemble a small workgroup of affected parties to develop the implementation guidance for these provisions.
- The Board should direct CARB staff to exempt any feedstocks that are grown on land that was already in production prior to 2007 from being subject to these sustainability provisions. Since they were already in agricultural production prior to 2007, those lands involve no deforestation whatsoever, the primary concern raised by CARB staff during the workshop process and ostensibly the reason the sustainability provisions were proposed. These domestic feedstocks already meet the qualification criteria to generate RINs in the federal Renewable Fuel Standards, which were established to address similar sustainability concerns. It makes complete sense that the LCFS align with these existing federal requirements that the clean fuels industry already understands and complies with.
- As an alternative to the previous bullet, the Board should direct CARB staff to draft implementation guidance for any feedstocks that are proven to be low deforestation risk and could be exempted, that considers:
 - the different environmental impacts of different feedstocks;
 - alignment with the certifications that are already required for producers selling into the Canadian or European markets to avoid expensive and unnecessary duplication of effort; and
 - using a mass balance approach or equivalent for feedstocks that are co-mingled prior to biofuel processing.

Exemption for Jet Fuel

Clean Fuels and CABA believe that prior to the availability of sustainable aviation fuel (SAF), exempting jet fuel from the LCFS program seemed logical. However, the landscape has dramatically shifted with new facilities coming online in the very near future. In light of this evolving reality, it is perplexing that the proposed amendments continue to exempt intrastate jet fuel until January 1, 2028. Such a delay would be severely counterproductive since urgent market signals are crucial for capitalizing on the momentum the industry is currently experiencing.

Request: The Board should direct CARB staff to advance the repeal of the exemption to January 1, 2025. This would offer essential support urgently needed to transition the aviation sector toward cleaner, more sustainable practices. Furthermore, we advocate for removing the exemption of all jet fuel, not solely intrastate, as continuing reliance on petroleum jet fuel amidst cleaner alternatives is entirely unnecessary, especially for years 2025, 2026, and 2027 when the industry has already announced projects that could fulfill the entire SAF obligation for all three years.

Update GTAP-BIO

Clean Fuels and CABA would like to re-emphasize that the ILUC model, GTAP-BIO, is not being updated during this rulemaking while all other key models used to calculate lifecycle emissions are

being updated or are new (GREET 4.0, HyCap, OPGEE). Previous comments submitted by Clean Fuels and CABA throughout the workshop process highlight the many reasons why this gross inequity must be resolved during this rulemaking.

Despite many years of stakeholder requests, CARB has not revisited GTAP-BIO, electing to continue using the 2014 version of GTAP-BIO, which in turn uses nearly two decade old datasets, compared to the 2022 version that reflects the most updated and granular data available based on real-world observations developed over many years. The failure to use the latest science quite frankly puzzles our members and continues to be a significant point of frustration regarding the assignment of CIs for biofuel producers. An update to the ILUC modeling would be a welcome effort that can complement and inform the discussions about environmental impacts from biofuels and the design of the sustainability provisions as described above. Using the latest version, the ILUC impact from soy would be decreased from the current 29.1 g CO₂e/MJ to less than 10, a 67% reduction from the current value and an 84% reduction from CARB's original value set in 2011. It is counter-intuitive and nonsensical that CARB propose guardrail sustainability provisions in this rulemaking without first making sure the regulation reflects the most current science available.

Request: The recent announcement to postpone the Board hearing from March to a future meeting provides a great opportunity for CARB to update the GTAP datasets in line with the above. The Board should direct CARB staff to update GTAP immediately to be incorporated into the current rulemaking..

Penalty for Underestimating a CI

Clean Fuels and CABA believe that the proposed changes to how CARB will treat a CI score that is verified to be higher than their approved value is overly punitive. CI scores are dependent on a multitude of feedstock assumptions and operating conditions and pathway holders make their best faith effort when they compile the pertinent model inputs for their pathway applications. They include the best data available to them, in addition to a reasonable margin of safety to cover fluctuations throughout the fuel's lifecycle.

Credits that were illegitimately generated due to having a higher CI at the time of verification compared to their approved value should absolutely be replaced, but at a one to one ratio, not at a four to one ratio. CARB provides no justification in the ISOR to warrant the additional penalty, and no justification has been provided by CARB that documents underestimation of CI scores is a rampant issue. If a pathway holder's underestimation is due to demonstrable misconduct, then CARB can use its existing enforcement and penalty authority to address that situation. But unintentional shortfalls made in good faith that are relatively minor should not be subject to this penalty.

Request: The Board should direct CARB staff to remove the quadrupling of the number of credits that need to be retired against the illegitimate credit generation due to an underestimation of a CI.

Incorrect Tallow value in CA-GREET

Clean Fuels and CABA are concerned that the proposed CA-GREET 4.0 model contains an incorrect value for emissions related to the energy inputs for beef tallow rendering process. This

error first appeared in GREET 2016 and was identified by the Argonne National Laboratory⁶ and corrected in GREET 2017. The difference is about 8 gCO_{2e}/MJ, about double what it should be. However, this correction was not made to CA-GREET 3.0 nor to CA-GREET 4.0.

GREET 2022 updated the energy use for rendering with data from another 46 rendering facilities. The values were broadly in line with the data from the original 25 plants that were used to generate the data in the GREET models from 2014 to 2021.

Request: The Board should direct CARB staff to update CA-GREET 4.0 with the correct energy inputs for the beef tallow rendering process as contained in GREET 2022.

Conclusion

Clean Fuels and CABA thank CARB staff for their continued efforts to strengthen the LCFS and provide the vision for the program to meet California's carbon neutrality goals. For this rulemaking, we support the proposed increases in the CI targets but feel that even more can be done to strengthen the program and the market by making additional adjustments to the step-down and automatic acceleration mechanisms. We are deeply concerned by the lack of transparency regarding the process to add sustainability provisions to the LCFS but stand ready to work with CARB to address those concerns in a collaborative way in the future. We support the repeal of the exemption of jet fuel as soon as possible. We strongly believe that the latest science should be used to estimate ILUC and to calculate the CI for tallow pathways and that updating GTAP and GREET will help. Finally, we would like to endorse and incorporate by reference the comments filed by members and affiliates of Clean Fuels and CABA, including but not limited to ADM, Darling Ingredients, and the National Oilseed Processors Association. Thank you for your consideration of these comments. We look forward to continuing our strong collaboration with CARB and staff.

Sincerely,



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⁶ Updates on the Energy Consumption of the Beef Tallow Rendering Process and the Ratio of Synthetic Fertilizer Nitrogen Supplementing Removed Crop Residue Nitrogen in GREET, Argonne National Laboratory, October 9, 2017.