February 20, 2024

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

Submitted via CARB's online Comment Submittal Form

Re: Environmental Justice, Environmental, and Community-Based Advocate Response to Proposed LCFS Amendments and Initial Statement of Reasons

Dear Chair Randolph and members of the Board,

The undersigned organizations believe there is a significant opportunity to reform the Low Carbon Fuel Standard (LCFS) so that it propels California's progress in the fight against the climate and air pollution crises in a manner that delivers economic and environmental justice.

The Staff Proposal Maintains and Exacerbates Several Problems with the LCFS

1. **In contrast to California's groundbreaking regulations designed to accelerate zero emissions transportation options, the LCFS continues to favor combustion-based biofuels and biogas that contribute to pollution.**

   Over 75% of credits in the program flow towards biofuels and biogas (falsely characterized as "carbon negative") flooding the credit market with fuels that end up combusted, while dampening the LCFS's ability to support zero-emissions transportation, even as critical regulations like the Advanced Clean Trucks and Advanced Clean Fleets rule are poised to come into effect.

2. **These combustion-based fuels do not deliver meaningful greenhouse gas reductions in California's transportation system.**

   Lipid-based fuels already required for compliance with the Federal Renewable Fuel Standard are merely shuffled into the California market while increasing demand for supply-constrained feedstocks and finite land. Meanwhile, increasingly extravagant claims of avoided methane allow the LCFS to function as a more lucrative, less regulated offset program, even as CARB ignores the Legislature's mandate in Senate Bill 1383 to adopt regulations and directly reduce methane from manure management at industrial livestock operations in the State. Moreover, these fuel pathways provide no additive emissions benefits (the reductions are not additional), because their digesters were demonstrably funded through state grant programs, the Aliso Canyon Mitigation Agreement, and the Federal Renewable Fuel Standard.

3. **Beyond failing to align with California's climate and air quality objectives, these combustion-based fuel pathways exacerbate social and environmental injustice.**

   Increasing lipid-fuel consumption extends pollution burdens in oil refinery communities where these fuels are produced. It also drives deforestation as more land is converted to crop production, and it requires either the intensification of agriculture (i.e. greater pesticide and fertilizer use) and/or reduced food consumption amongst those who are already food insecure. Livestock operations benefitting from lucrative credits for their supposed methane reductions are incentivized to maintain or even intensify their polluting management practices that foul the air and drinking water of local communities. Smaller and more sustainable farms that manage manure through practices that largely avoid methane creation cannot convert those beneficial practices into revenue through the LCFS, perversely creating a competitive advantage for massive livestock operations. Furthermore, "carbon negative" factory farm gas facilitates and even encourages the polluting production of dirty hydrogen at refineries. It bears noting that CARB ignored the data-backed concerns raised by people living near industrial dairies and refineries utilizing factory farm gas credits to produce carbon negative hydrogen from fossil fuel in their "environmental justice" section.

4. **The costs of these ineffective subsidies are borne by drivers in California dependent on gasoline and diesel.**

   The Standardized Regulatory Impact Assessment (SRIA) discloses that the LCFS program's overwhelming subsidies for combustion-based biofuels are costs actually borne by drivers of diesel- and gasoline-powered vehicles. Over time, this cost at the pump increases from an average of $0.37 per gallon through 2030 to an astronomical $1.15 per gallon between 2031 and 2045 in 2021 values (the inflation adjusted pass through costs would be even higher). This cost will be increasingly imposed on low-income Californians least able to self-finance a transition to zero-emissions vehicles. While the ISOR claims that the SRIA overstated the correlation between credit prices and pass-through costs and attempts to obscure increased costs to gas and diesel consumers with decreased costs to electric vehicle drivers, there is no denying people and communities that are and will remain dependent on gasoline and diesel will pay at the pump for massive revenues primarily destined for investors in and producers of biogas and biofuels.

5. **The proposed policy changes further lock Californians into subsidizing biogas for decades to come.**

   The staff proposal allows for biogas-based natural gas and hydrogen to generate credits and enjoy avoided methane crediting for up to 30 years and biogas-based electricity to generate credits and enjoy avoided methane crediting beyond in perpetuity. This demonstrates that CARB has no intention of phasing out avoided methane crediting and, furthermore, signals to investors that they will be able to rely on revenues associated with avoided methane crediting for decades. This, in turn, will lead CARB to maintain subsidies for biogas production to guard against "stranded assets," one of CARB's justifications for maintaining subsidies for biogas. Unfortunately, the staff proposal threatens to sustain CARB's commitment to ensuring adequate return on investment for investors above their role of supporting a transition to clean transportation fuel and a sustainable agricultural sector.

6. **CARB Staff's Proposal Passes Regressive Costs onto Drivers for Dubious Benefit**

   The staff proposal fails to include amendments to address the root causes of the supply glut from Inappropriate credits. Nor do they address the program's lopsided support for polluting fuels over end-to-end zero emission pathways. Instead, as best we can tell, CARB staff's proposed fix to the problem of collapsing credit prices is simply to ramp up demand by increasing the program's overall stringency.

   Absorbing the glut of inappropriate credits in the program with higher carbon intensity targets will increase the credit price, and in doing so will pass greater costs onto California drivers without commensurate climate benefit. Their money will disproportionately fund fuels that academics and environmental organizations have shown have questionable and even adverse climate impacts. And they will continue to fund fuels championed by the oil industry and industrial agribusiness, while disregarding the unequivocal opposition of environmental justice communities.

   This would make the LCFS a more regressive and less credible climate policy. As other states and the Federal government consider taking up the policy, we urge you as Board members to avoid allowing the LCFS to go down this path.

A Real Solution

Our coalition of climate, environmental justice, animal welfare, public health, and transit advocates believes there is a better path to reforming the LCFS. We urge Board members to direct staff to make the following critical amendments to the Program:

1. **Restrict the over-generation of credits from polluting fuels.** This will shrink the supply of credits and re-balance compliance away from combustion-based biofuels toward zero-emissions

pathways with the greatest transformational potential for the State's goals while also addressing severe environmental injustices embedded in the current program. This reform can be done by:

- **Eliminating avoided methane crediting upon the adoption of the updated regulations.** Livestock operators have profited for more than a decade from exaggerated claims of "negative" emissions based on the assumption that they are free to dump methane into the atmosphere. That assumption must be eliminated starting upon adoption of the amendments, consistent with CARB's mandatory legal duty to adopt, and clear regulatory authority to implement, regulations to address livestock manure methane emissions.
- **Capping the unrestricted use of lipid-based biofuels.** A cap is the most prudent path to avoid inappropriate re-shuffling of feedstocks into California and reduce the severe, irreversible risks of deforestation or global hunger that increase non-linearly with growing consumption of crop-based biofuels.
- **Prohibiting credits for Carbon Capture and Storage or Direct Air Capture projects that utilize enhanced oil recovery.** The Legislature and Governor have made clear with the passage of SB 1314 that enhanced oil recovery has no role to play in meeting California's carbon neutrality goals. Accordingly, such projects should not generate LCFS credits.
- **Eliminating credits for Direct Air Capture (DAC).** The LCFS is a program to reduce the carbon intensity of transportation fuels in California. A DAC facility in Louisiana has no apparent bearing on the carbon intensity of California's fuels, yet the CARB staff proposal would allow such projects to generate credits. Further, any project that aims to reduce atmospheric carbon by capturing carbon in the ambient air will fail to achieve net emissions reductions if those reductions are offset by further pollution from fossil fuels in California, the effective impact of including such projects in the LCFS.
- **Ensuring credits derived from livestock manure include all GHGs from producing manure-based fuels.** CARB's current implementation of the LCFS improperly ignores the greenhouse gas emissions from the production of manure and the handling of manure digestate, a practice which over-values the carbon intensity of manure-based fuels and leads to excessive credit generation.

2. **Enhance LCFS Support for Zero-Emission Pathways with the greatest environmental justice benefits.** With credit prices stabilized by restricting supply of inappropriate credits, the program can focus on elevating its support for key priorities that deliver maximal climate, air pollution, and economic justice co-benefits. The LCFS should be focused primarily - if not exclusively - on supporting the transition to electrification of the transportation sector. To that end, critical policy interventions that should complement policies to eliminate harmful credits for combustion fuels include:
    - **Adopt a credit multiplier for zero-emission mass transit vehicles, including school and transit buses.** The Scoping Plan calls for a massive reduction in vehicle-miles-traveled to meet State goals. The LCFS' current methodology undervalues zero-emission mass transit vehicles' contributions to reducing the carbon-intensity of California

transportation fuels by ignoring their ability to help shift more Californians out of dirtier single-occupancy vehicles.

- **Allow full credit-generation for fixed-guideway systems** (e.g., light rail and trolley buses). Functioning, zero-emission transit agencies are vital for the mobility of low-income Californians and for reaching climate targets. Currently, the LCFS imposes a unique penalty on transit agencies by reducing their ability to generate credits for vehicles on fixed guideway systems installed before 2011.

3. **Expand and Expedite Rules Making Aviation Fuels Deficit Generators**. CARB should expedite the transition of aviation fuel to a deficit generating fuel. Additionally, California's share of fuel from interstate and international flights should be included in the LCFS.

4. **Direct CARB staff to initiate a rulemaking to directly regulate methane emissions from manure management to achieve the methane reductions required by Senate Bill 1383.** It is inappropriate for California drivers to continue footing the bill for methane mitigation when CARB has a legal duty to mandate methane reductions from livestock operations.

Taken together, our suite of recommendations would not only move the LCFS in a more progressive direction, but better align the program with CARB and the State's own air quality standards and stated goals of advancing zero emission transportation while centering the voices of the communities and workers at the frontlines of the energy transition.

We urge Board Members to direct staff to make these critical changes, and we look forward to working with you to craft a stronger, more equitable LCFS program.

Sincerely,

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