



August 27, 2024

Clerk's Office
California Air Resources Board
1001 I Street
Sacramento, CA 95814

Submitted via electronic mail to: <https://ww2.arb.ca.gov/lispub/comm/bclist.php>

RE: Public Comment on Proposed Amendments to the Low Carbon Fuel Standards – 15 Day Public Notice

Executive Officer Cliff,

The undersigned organizations are writing to provide comments in response to the 15-day public notice for the proposed amendments to the Low Carbon Fuel Standards (LCFS). We appreciate the opportunity to offer our perspective on these amendments, particularly as they pertain to the treatment of forest biomass as a feedstock for low carbon fuels as provided in Title 17, CCR Sections 95488.8 and 95488.9, respectively. We have significant concerns regarding the proposed definitions and exclusions within the regulatory language.

Narrowing of Feedstock Availability

The proposed definitions notably narrow the scope of feedstock material availability by excluding industrial lands, which remain undefined, and limiting the sources of material to those derived solely from fuel reduction or restoration projects. These terms, "fuel reduction" and "restoration projects," are themselves undefined, further complicating their application. By excluding other silvicultural treatments, the proposed language unnecessarily restricts the types of forest management practices that can contribute to low carbon fuel production.

Lack of Clear Definitions for "Non-Industrial" and "Industrial" Forestlands

The absence of a definition for "non-industrial forestland" in the proposed amendments creates ambiguity, which conversely leaves all other sectors forestlands across the state undefined as well. Without a clear understanding of which lands would be considered "non-industrial", other public, private, NGO, or tribal landowners and managers do not have the ability to determine if material generated from these landscapes could also be considered acceptable feedstock. The lack of a clear definition hinders stakeholders' ability to understand and comply with the regulations, potentially leading to inconsistent application and enforcement.

Limitation on Treatment Type

Beyond the challenge of simply allowing participation to an undefined cohort of "non-industrial" forest landowners, additional challenges are brought forth by limiting the types of allowable forest treatments where feedstock could be derived. It is unclear whether the term "reduce risk" would encompass the broad suite of treatments being pursued across the landscape as we work toward achieving the established million-acre strategy, or only some subset of treatments that are considered risk reduction treatments. This ambiguity will further limit feedstock availability, notwithstanding the previous confusion cited due to the reference to nonindustrial landowners, despite a projects potential role in reducing wildfire risk and/or hazard.

Exclusion of Timberlands from Wildfire Risk Reduction Efforts

While the Initial Statement of Reasons suggests that these standards are intended to reduce wildfire risk, the exclusion of large portions of timberlands where innovative solutions could be employed contradicts this objective. Timberlands, especially those prone to wildfires, present a significant opportunity for the use of biomass feedstock, which could contribute to both fire hazard reduction and low carbon fuel production.

Misalignment with Deforestation and Conversion Concerns

The Initial Statement of Reasons also cites the need to avoid deforestation and land conversion as a justification for the proposed standards. However, lands excluded by these

amendments are primarily “timberland” (Ref. PRC section 4527) and are governed by the California Forest Practice Act and Rules. This regulatory framework ensures that timberlands cannot be deforested, as they must be restocked or meet stringent stocking standards following commercial activities or treatments. Excluding these lands from the scope of the LCFS program overlooks their potential contribution to low carbon fuel production while maintaining environmental sustainability.

Sustainable Management and Regulatory Oversight

The timberlands in question are managed sustainably under strict regulatory requirements. Excluding these lands from the scope of the LCFS amendments overlooks their potential contribution to low carbon fuel production while maintaining environmental sustainability.

Confusion Regarding Third-Party Certification Requirements

The Initial Statement of Reasons, along with the proposed amendments provided in the 15-Day rule text lack clarity on whether woody feedstocks must originate from lands that are third-party certified. Conflicting language within the rulemaking documents raises concerns about whether non-industrial landowners, who are less likely to hold third-party certifications, would be excluded from participating in the program. If this is the case, constriction on availability of feedstocks and reduce participation from non-industrial landowners would be a certainty given that very few non-industrial timberland owners hold and maintain third party certification.

Conflict with the Governor’s Wildfire and Fire Resilience Task Force Goals

Finally, the proposed amendments appear to conflict with the goals of the Governor’s Wildfire and Fire Resilience Task Force, which seeks to find ways to utilize low-value materials from timberlands to reduce wildfire threats. By excluding significant portions of timberlands, the proposed amendments undermine efforts to address the critical issue of wildfire risk through the utilization of biomass feedstocks.

In conclusion, we urge the California Air Resources Board to reconsider the proposed amendments to the Low Carbon Fuel Standards in light of these concerns. The inclusion of industrial timberlands, clearer definitions, and a more inclusive approach to feedstock sourcing will be essential to achieving the dual goals of reducing wildfire hazard and promoting sustainable low carbon fuel production. Without careful consideration and addressing of these above concerns, these regulations would severely hinder the development of the necessary innovative infrastructure that may represent the scale of outlets for forest material that contribute to wildfire hazard across the state, thereby perpetuating the cycle of extraordinarily destructive impacts from wildfire, and continually contributing to airshed impacts across the state and beyond.

A recommended approach to taking a more inclusive approach to woody feedstock procurement to support Low Carbon Fuel would be to include the below recommended definition within Title 17, CCR 95488.8(g)(1)(A)3.

“Forest Biomass Waste” means residues that are 1) removed for wildfire mitigation, forest restoration projects, or the protection of public safety, or 2) small-diameter, non-merchantable residues, limited to forest understory vegetation, ladder fuels, limbs, branches, and logs that do not meet regional minimum marketable standards for processing into wood products.”

We appreciate the consideration of these comments and look forward to working with the California Air Resources Board on developing an LCFS program that will assist in ameliorating the wildfire and forest health issues within California.

Sincerely,

The California Forestry Association

Matt Dias, President and CEO

Allotrope Partners

Robert Hambrecht, Partner

California Licensed Foresters Association

Brita Goldstein, President

Forest Landowners of California

Joe Smailes, Board President

Pioneer Community Energy

Sam Kang, Chief Operating Officer

Velocys

Jeff McDaniel, VP New Projects

Fall River Resource Conservation Districts

Todd Sloat, Project Manager

Sharmie Stevenson, Executive Director

Tehama County Resource Conservation District

Jon Barrett, District Manager

Associated California Loggers

Eric Carleson, Executive Director

California Biomass Energy Alliance

Julee Malinowski-Ball, Executive Director

California Forest Carbon Coalition

Mikhael Škvarla, Executive Director

Mendocino Humboldt Redwood Companies

John Andersen, Director, Forest Policy

Rural County Representatives of California

Staci Heaton, Senior Policy Advocate

The Redding Chamber

Todd Jones, President & CEO

Pit River Resource Conservation District

Todd Sloat, Project Manager

Sharmie Stevenson, Executive Director