August 27, 2024

Clerk's Office
California Air Resources Board
1001 I Street
Sacramento, CA 95812

Submitted electronically via: https://ww2.arb.ca.gov/applications/public-comments

Re: Northern California Power Agency's Comments on 15-Day Changes to the Low Carbon Fuel Standard Regulation

The Northern California Power Agency[1] ("NCPA") respectfully submits these comments to the California Air Resources Board ("CARB") regarding the 15-day Changes to the Low Carbon Fuel Standard ("LCFS") regulation as posted on August 12, 2024.

NCPA supports the LCFS program as an essential and effective strategy for diversifying California's transportation fuels and significantly reducing greenhouse gas ("GHG") emissions from the transportation sector to further the State's climate change goals. POUs are uniquely positioned to complement the State's transportation electrification efforts by tailoring programs to the specific needs of the communities they serve. LCFS credit revenue is a critical funding source for transportation electrification incentive programs for POUs, and LCFS funds are directed back into the community.

NCPA supports CARB's proposal to eliminate the pre-2011/post-2010 delineation for Fixed Guideway System crediting, recognizing that no efficiency difference is recorded in the actual operation of newer vs. older railway systems. Systems like the Bay Area Rapid Transit (BART) provide public transit services that are essential to California's climate goals, and the proposed updates will help to ensure that transit agencies can continue to provide services.

However, NCPA urges CARB to make the following necessary modifications to the regulation in 15-day changes to ensure that utilities can continue to participate in the LCFS program and administer transportation electrification programs funded by the LCFS.

[1] NCPA was established in 1968 to construct and operate renewable and low-emitting generating facilities and assist in meeting the wholesale energy needs of its 16 members: the Cities of Alameda, Biggs, Gridley, Healdsburg, Lodi, Lompoc, Palo Alto, Redding, Roseville, Santa Clara, Shasta Lake, and Ukiah, Plumas-Sierra Rural Electric Cooperative, Port of Oakland, San Francisco Bay Area Rapid Transit District, and Truckee Donner Public Utility District – collectively serving nearly 700,000 electric consumers in Central and Northern California.

I. THIRD-PARTY VERIFICATION OF ELECTRICITY CREDITS

The proposed order expands the applicability of Verification of Quarterly Fuel Transactions Reports in section 95000(c) to include all types of electricity credits except for base credits. While some verification of electricity credits may be warranted, the Proposed Order does not adequately recognize fundamental differences between electricity and other fuel types, and the wide variance in the number of credits generated by reporting entities. This change will disproportionately impact small fleets, non-profits, and small and rural cities.

A. Low-Volume Charging Should Be Exempt from Verification Requirements

The deferment of verification for entities generating fewer than 6,000 credits doesn't go far enough to protect entities from the high costs of verification, as even verification every three years may lead to costs that exceed the proceeds from credits generated during that period. Entities generating a low number of credits, perhaps under 2,000 credits per year, should continue to be exempt from the verification requirements to ensure that we aren't inadvertently causing barriers to entry for smaller entities. CARB should consider how many credits would be needed annually to support expected third-party verification costs and maintenance of the chargers.

Many NCPA members own and operate a small number of EV chargers within their territories as a public service for their communities and to ensure charger availability. This service is especially critical in remote areas, underserved areas, and areas with lower EV adoption, as it may not yet be profitable for larger charger companies to invest in infrastructure in such locations.

NCPA itself, as a public agency with a small fleet, has invested in charging infrastructure at its headquarters, and its participation in the LCFS allows the aggregation and sale of credits on behalf of NCPA Members. The proposed verification requirements would likely cause NCPA to drop out of the LCFS, making it more difficult for many of our utility Members to participate in the LCFS and potentially causing those utilities to drop out as well.

B. Site Visits Should Be Based on an Assessment of Risk

The specific process for third-party verification is set forth in section 95501 and is essentially unchanged by the amendments, despite the expansion to various types of electricity credits. The regulatory requirements for site visits are drafted inflexibly and do not differentiate between fuel pathways and quarterly fuel reports. For example, the regulations require the same verification steps for a hydrogen facility as a single EV charger with 1 MWh of monthly charging. EV charging stations are largely standardized pieces of equipment with existing accuracy regulations. Requiring site visits will yield very little data of value and will instead be wasteful of time and resources.

The regulation should be amended so that site visits are not required for quarterly fuel reports for electricity credits; desktop reviews should be relied on whenever possible.

C. The Less Intensive Verification Process Should Be Allowed for Entities with Deferred Verification

While the regulation does incorporate a new process allowing for "less intensive verifications" for certain entities only reporting electricity transactions, the mechanism also appears to require annual verifications, thereby undoing any good achieved by the deferment for entities under 6,000 credits. This inconsistency should be corrected by removing the word "annual" from section 95501 (h):

> *Eligibility for Less Intensive Verifications. Upon receiving a positive verification statement under full verification requirements, fuel reporting entities required to obtain the services of a verification body under section 95500 and only reporting electricity transactions identified in section 95500(c)(1)(E) may choose to obtain less intensive verification services for the following two ~~annual~~ verifications of their Quarterly Fuel Transactions Reports.*

II. ASSIGNMENT OF BASE CREDITS TO ORIGINAL EQUIPMENT MANUFACTURERS

The 15-day changes include a substantial addition to the provisions regarding base credits, which have historically been allocated to electric distribution utilities (EDUs). The newly proposed amendments would instead potentially allocate up to 45% of base credits to original equipment manufacturers (OEMs) instead of the EDU fuel provider. This proposal is a significant departure from the current regulation and has not been vetted in a workshop. Base credits are a vital funding source for POUs to support transportation electrification in their communities, and funding should not be diverted to OEMs at the cost of community and equity-focused programs.

If CARB determines that a mechanism is needed to allow for the allocation of base credits to OEMs, then the regulation should be clarified to ensure that utility funding for holdback programs is protected, and to provide more explicit timing for any potential OEM allocations. NCPA supports the redline edits as proposed in the joint "CA Utilities" comment letter, submitted on August 27, 2024.

A. POU Holdback Program Funding Should Not Be Impacted

The 15-day changes authorize the Executive Officer to issue base credits to OEMs if certain criteria are met, but do not provide any details or limitations on how the base credits will be redirected from the EDUs to support the OEM allocation. A potential OEM credit allocation must not impact the credit allocations for utility holdback programs.

Without clarifying language, the regulations could be interpreted as allowing a 45% reallocation from each EDU, which would represent nearly half of the base credits small POUs currently receive. Without this vital funding source, small utilities will either need to cancel transportation electrification programs, or potentially rely on ratepayer funds.

NCPA recommends that CARB clarifies that EDU holdback credits will not be reduced as a result of the new provisions, and that the credits allocated to the OEMs will not exceed the number of credits that would have been transferred to the Clean Fuel Reward (CFR) program according to the table in section 95483(c)(1)(A)(2).

B. A Deadline Must Be Established To Provide Certainty Regarding the Allocation of Base Credits

CARB must include language establishing a deadline for the Executive Officer's determination of whether to issue base credits to OEMs. Establishing a deadline for a one-time assessment will ensure that the utilities have appropriate time and information to determine whether a CFR transfer is required and whether the utilities will need to move forward with implementing the revised CFR program.

Requiring the Executive Officer's decision by March 15, 2025, will ensure that the EDUs have enough time to initiate a timely transfer of credit proceeds to the CFR program, if required. In addition, a deadline of March 15 would provide clear direction to the utilities as to whether they will need to develop and implement the proposed statewide CFR program for medium- and heavy-duty vehicles, as directed by the regulation.

C. CARB Should Ensure Oversight of OEM Base Credit Programs

The reallocation of base credits from a utility-run statewide CFR program to the OEMs should require, at the least, the same oversight from the Executive Officer and CARB. Therefore, the regulation should be amended to include a requirement for the Executive Officer to review and report to the Board on the implementation of OEM programs annually, beginning January 1, 2027, with recommendations for continuing or decreasing allocations to the OEMs.

III. REQUIREMENTS FOR UTILITY HOLDBACK CREDITS

As noted in NCPA's previous comments[2], the requirements for utility holdback credits must recognize that program needs will vary based on the territory and population served. The regulatory proposal, as drafted, will make it more difficult for smaller utilities to receive and distribute the funding necessary to support transportation electrification programs.

[2] Northern California Power Agency's Comments on the Proposed Amendments to the LCFS, submitted February 20, 2024: https://www.arb.ca.gov/lists/com-attach/6983-lcfs2024-UT9XMlIjUGIBWAJh.pdf

A. <u>The Equity Requirement for POUs should be set at 50%</u>

The current regulatory proposal does not align with the posted "Appendix E: Purpose and Rationale for Low Carbon Fuel Standards Amendments;" CARB should correct this inconsistency and update section 95483 (c) to set the equity requirements for POUs at 50%. POUs represent specific and limited territories within the State, with a wide variety of populations, EV densities, and community needs. Designing and implementing effective transportation electrification programs for low-income and/or disadvantaged communities can be challenging, and the uptake and timing of projects are difficult to predict. There will be natural fluctuations in program spending year-to-year, and an annual requirement of 50% allows for better planning to maximize the impact of equity spending.

B. <u>The LCFS should not require specific rate structures as a barrier to accessing base credits</u>

The requirement in section 95483 (c) for EDUs to specifically provide rate options is inappropriate and will potentially negatively affect transportation electrification programs in areas with low EV adoption. The five largest utilities in the State already offer rate options to encourage off-peak charging, as do most medium-sized POUs. However, there are POUs that are either 1) unable to adopt such a rate option due to current limitations in metering infrastructure, or 2) do not yet need such a rate option.

Adopting rate options to encourage off-peak charging is an ongoing consideration for all utilities as the deployment of transportation and building electrification increases. It can take years to develop and approve new rate structures. In the meantime, such POUs can encourage off-peak charging through non-rate mechanisms. Requiring a rate option as an eligibility requirement to access base credits could potentially cause POUs to drop out of the LCFS program and, therefore, cease funding for transportation electrification programs in those territories. Therefore, NCPA recommends striking the following from 95483 (c)(1)(A) (in red):

~~*(1) EDUs seeking eligibility to generate base credits must provide rate options that encourage off-peak charging and minimize adverse impacts to the electrical grid;*~~

C. <u>Caps for administrative costs for equity programs should remain at 10%</u>

The costs associated with the development and implementation of equity programs are vital to the success of such programs, and reducing the current cap from 10% to 7% is inconsistent with the needs for administering such programs. Smaller utilities, in particular, have higher administrative costs and fewer resources to administer programs that support the adoption of EV technology and deployment of EV infrastructure in equity communities. CARB should maintain the current cap of 10% for administrative costs and its current guidance detailing what costs are included in the calculation.

D. Additional support is needed to jumpstart transportation electrification in Small POU territories

Pursuant to section 95483(c)(1)(A), unallocated base credits are deposited into the joint Clean Fuel Reward (CFR) account but are tracked separately by the CFR program administrator. These accumulated credit proceeds could be reallocated to the State's smallest utilities to help provide the additional funding needed for the start-up costs involved in designing and launching transportation electrification programs.

NCPA recommends including the following regulatory language (in blue) that allows the CFR Steering Committee to work with the Executive Officer to design one-time transfers to qualifying small EDUs:

> *Proceeds from non-opt-in EDU base credits that were allocated to the Large EDUs beginning with the deposit of Q2 2019 credits through the deposit of Q2 2024 credits and then transferred to the Clean Fuel Reward program pursuant to section 95483 (c)(1)(A) may be transferred by the Clean Fuel Reward Program Administrator to small EDUs opted in to the LCFS program by March 31, 2025. Any base credit proceeds reallocated in this manner must be spent by the recipient small EDU in accordance with section 95491 (e)(5). The Executive Officer must approve the Clean Fuel Reward Program Administrator's plan for distribution of previously unallocated base credit proceeds prior to any transfers.*

E. The list of Holdback Programs should be reorganized and clarified

NCPA supports the California Electric Transportation Coalition's (CalETC) proposed revisions to the list of holdback programs in section 95483, as detailed in its comment letters submitted on February 20, 2024[3], and August 27, 2024. The holdback program list should be combined and updated to ensure that utilities can provide the transportation electrification programs needed to address the evolving needs of their communities.

- There should be one pre-approved list of programs, rather than maintaining different program lists for equity and non-equity. Many program types may contain an equity and non-equity component, and the current reporting structure already requires documentation to account for the portion directly benefitting equity communities. Maintaining two separate lists causes confusion and delays in program design.

[3] CalETC's Comments on Proposed 2024 LCFS Amendments, submitted February 20, 2024: https://www.arb.ca.gov/lists/com-attach/6856-lcfs2024-UjFQN1Y7UGYKeFU2.pdf

- NCPA supports including projects for medium- and heavy-duty (MHD) electrification as an “equity” projects, but believes the regulations should clarify that any such project should qualify as equity without consideration of location.
- The list of agencies that POUs may consult in creating workforce development projects should be expanded to include other pertinent entities, such as California Community Colleges, community-based organizations, and POU Governing Boards.
- Education and outreach projects pertaining to transportation electrification technologies and focused on equity communities are still essential tools for increased adoption in equity communities, and should be included on the project list.

IV. CONCLUSION

We appreciate the Board’s consideration of these comments, and we look forward to continuing our collaboration with CARB and other stakeholders on regulatory amendments to ensure the success of the LCFS program.

Respectfully submitted,

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