August 27, 2024

Chair Liane Randolph
California Air Resources Board
1001 I Street
Sacramento, CA 65814

Via Electronic Submission

Re: Advanced Biofuels Association Comments on the 15-Day Notice of Revisions to the 2024 Proposed Amendments to the Low Carbon Fuel Standard

Dear Ms. Randolph and Members of the Board,

The Advanced Biofuels Association appreciates the opportunity to comment on the California Air Resource Board's (CARB) 15-Day Notice (published on August 12, 2024) of revisions to the proposed amendments to the California Low Carbon Fuel Standard (LCFS). ABFA thanks CARB for continuing to strengthen their already successful Low Carbon Fuel Standard Program with the implementation of more stringent carbon reduction targets.

The LCFS program has contributed to the investment in facilities in the United States, and arguably in other parts of the world, to produce low carbon intensity biomass based transportation fuels, including biodiesel and renewable diesel (RD), and attract that production into the state of California. The success of the LCFS program in displacing fossil fuel diesel, in particular,is evident from CARB's own data. According to the LCFS Data Dashboard, biodiesel and RD accounted for 61 percent of in-state diesel demand in 2023 and nearly 73 percent in the latest data for Q1 2024.[1]

In these comments, ABFA notes its strong disagreement with CARB's Modifications to Section 95482, Item 4 as described on Page 4 of the Notice of Public Availability of Modified Text and Availability of Additional Documents and/or Information and detailed on Page 37 Item (i) of Attachment A-1 for the reasons described below.

In addition, ABFA notes below its concerns with the sustainability certification and land use change provisions that are proposed for the broad array of crop-based and forestry-based biofuels.

The market should dictate feedstock choice.

ABFA believes that federal and state carbon intensity (CI) targets allow the feedstock and biofuels market to function efficiently. As carbon intensity targets increase, the demand for feedstock producing low carbon intensity biofuels will increase driven by currently available federal and state tax credits. Most notably, the expiring CI-agnostic federal blenders tax credit (BTC) will be replaced in 2025 with the Inflation Reduction Act's (IRA) CI-dependent 45Z Clean Fuel Production Credit (CFPC) rewarding the use of low carbon intensity feedstocks with higher credit value.

In conjunction with CARB reducing its CI targets by 9 percentage points in 2025, ABFA feels that no further restriction on feedstock use is necessary; the market will determine the most economic path forward to produce the low carbon intensity biofuels required on a federal and state level.

[1] https://ww2.arb.ca.gov/resources/documents/lcfs-data-dashboard

The market is already working.

In its own words, the CARB feedstock proposal states "Biomass-based diesel produced from soybean oil and canola oil is eligible for LCFS credits for up to twenty percent combined of total biomass-based diesel annual production reporting, by company." In addition, the regulation is based on "reported…quantities for 2023 LCFS reporting…"

According to the Energy Information Administration (EIA) Monthly Biofuels Capacity and Feedstocks Update Report, Tables 2b and 2c for calendar year 2023, canola oil accounted for 10.5% and soybean oil accounted for 40.5% of the feedstocks consumed for the production of biofuels.[2] According to the CARB LCFS Data Dashboard Figure 6 Volume Tab, on an aggregate biodiesel and RD generated volume basis, canola accounted for 2.5% and soybean oil accounted for 17.0%, for a total of 19.5% of the volume. If one were to separate the biodiesel feedstock production volumes from the RD volumes, one would calculate that canola and soybean oil accounted for 25.6% of the biodiesel volumes and 18.6% of the RD volumes.[3]

Given that on a national level, canola oil and soybean oil represented over 50% of the feedstock consumption but less than 20% of the CARB biomass based diesel volumes in 2023, it is ABFA's position that the market is already working to direct low carbon intensity feedstock production to California. In fact, by inserting itself into the market by imposing feedstock limitations, CARB's actions could depress the price of canola and soybean oil making them more economically attractive than other, lower carbon intensity feedstocks such that the producer currently under the 20% threshold decides to increase canola and soybean oil processing up to the 20% threshold

CARB's proposal may not treat all biodiesel and RD industries consistently.

While CARB's proposal might seem reasonable on an aggregate basis, this might not be true on a specific individual facility basis. On an aggregate basis, in 2023, canola and soybean oil accounted for 19.5% of the volume, which is under the 20% threshold cited in the proposed rule. Based on CARB's own data cited above, bifurcating the biodiesel industry from the RD industry illustrates this in-equality. In aggregate, because the biodiesel industry exceeded the 20% threshold in 2023, the regulatory provision would take effect January 1, 2028. On the other hand, the RD industry was below the 20% threshold in 2023. As a result, the regulatory provision could disproportionately affect certain market participants because it would take effect upon implementation of the proposed rule.

CARB's proposal does not treat all facilities equally.

As written, the proposal for eligible credits is based on the percentage of biomass based diesel produced from soybean oil or canola oil for 2023 LCFS reporting. ABFA interprets the rule for companies with a biomass-based diesel pathway certified prior to the effective date of the regulation as follows: If the percentage was over 20%, the provision takes effect January 1, 2028. If the percentage was less than 20%, the provision takes effect in accordance with the effective date of the amended regulation. ABFA believes that this amended regulation should have effect with the 2025 reporting year.

[2] https://www.eia.gov/biofuels/update/

[3] https://ww2.arb.ca.gov/resources/documents/lcfs-data-dashboard; ABFA notes that CARB has a mistake in its formula on Line 28 on each tab of Figure 6). The formula does not include the RD 'other feedstocks'. In other words, for 2023, the formula should replace N25 with N24

The proposed rule does not consider the different production volume capacities of these facilities, the rule only considers feedstock mix and the relevant percentage (and it does not provide clarity on how production delivered to destinations outside California would be treated). ABFA contends that this rule may confuse and disrupt the current supply dynamics. An unintended consequence may be that CARB is inadvertently choosing winners and losers. ABFA presents the following scenarios to illustrate inequities among different facilities.

- Example 1: Company A, with a 100 million gallon per year production capacity reported a 21% percentage for 2023 LCFS while Company B with the same production capacity reported a 19% percentage for 2023 LCFS. In this case, Company A could produce biomass based diesel up to a 100% percentage through compliance year 2027, while Company B is limited to 20%.

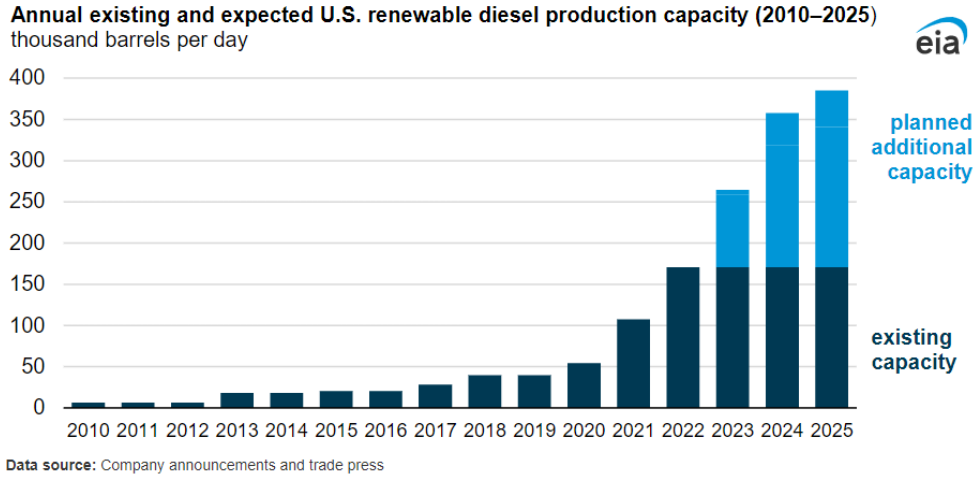
- Example 2: Company C, with a 30 million gallon per year biodiesel production capacity reported a 19% percentage for 2023 LCFS while Company D with a 300 million gallon per year RD production capacity reported a 21% percentage for 2023 LCFS. In this case, Company D with its larger capacity now has far more feedstock flexibility than Company C to react to changes in market conditions.

- Example 3: Company E, with a 300 million gallon per year production capacity in operation for over 3 years processing predominantly low carbon intensity feedstocks reports a 10% percentage for 2023 LCFS. Meanwhile, Company F starts up a brand new 300 million gallon per year facility in late 2023 and supplies the California market with 10 million gallons of biomass based diesel produced from soybean oil in 2023. Company F, on a relatively small volume reports 100% production from soybean oil, the proposed regulation assures Company F significant feedstock flexibility compared to Company E.

- Example 4: Company X, with a 30 million gallon per year production capacity reported a 35% percentage for 2023 LCFS. Company X then acquires five new locations in 2025 with an aggregate capacity of 150 million gallons, each of which reported a percentage less than 20%. Is Company X governed by the provision taking affect January 1, 2028 by virtue of its original capacity filing? A similar question could be asked if Company X simply expanded its original site.

RD capacity is expanding.

According to the EIA in February 2023, RD capacity was estimated at 2.6 billion gallons per year at the end of 2022 growing to an estimated 5.9 billion gallons per year by the end of 2025.



Source: EIA, "Domestic renewable diesel capacity could more than double through 2025", February 2023

These facilities have been constructed to meet the growing demand for low carbon intensity fuels on both a federal, as well as state level, including increasing demand from California as well as new demand from recent legislation passed in Oregon and Washington. Based on the EPA EMTS Reporting system, we note there has also been increasing demand for RD exports.

The CARB feedstock proposal places new facilities at a feedstock flexibility disadvantage.

- Example 5: Company H, with a capacity of 200 million gallons, starts operations in 2024. Company H reports no production volume to CARB for 2023 LCFS. Company H is then limited to only 20% of its soybean oil and canola oil volume being eligible for credits. Company H is disadvantaged compared to other facilities who reported volumes to CARB for 2023 LCFS that exceeded the 20% threshold.

The company-wide definition requires clarification.

According to the proposed rule, "Any reported quantities of biomass-based diesel produced from soybean oil or canola oil in excess of twenty percent on a company-wide basis will be assigned a carbon intensity equivalent to the carbon intensity benchmark shown in Table 2 in Section 95484(e) for the applicable data reporting year, or the certified carbon intensity for the associated fuel pathway – whichever is greater."

ABFA believes the term 'company-wide' needs to be specifically defined as an "LCFS-registered company", with no additional tracking required. Realistically, CARB should base this on what gets reported by producers in CARB's system which is set by registered companies. The next two examples illustrate the point:

- Example 6: Company A owns a facility in its name. Company B owns a different facility in its name. Company A and Company B own a third facility as a Joint Venture under a separate legal entity name. Is this a case of three companies, or is the joint venture interest divided appropriately between Company A and Company B to determine the percentage reporting?

- Example 7: Company A owns one facility in one legal name and owns a second facility in a different legal entity name.

CARB should clarify effective dates of certain provisions.

Deliverability Amendment (95488.8(i)(2)(B)(1))

- It is understood that the amendments made in 95488.8(i)(2)(B)(1) on the deliverability requirements would only affect projects which break ground after December 31, 2029.

Avoided Methane Period (95488.9(f)(3)(A))

- Production facilities were financed and constructed based off a three consecutive 10- year avoided methane crediting period. Reducing this to a two consecutive 10- year period significantly impacts the affordability of these assets, and therefore ABFA suggests grandfathering in existing dairy/swine facilities.

CARB should consider certain supply considerations post-January 1, 2028.

According to Page 4 of its Notice of Public Availability CARB states "…this provision would take effect starting January 1, 2028, to provide time to adjust feedstock supply contracts as needed."

ABFA believes that California could lose some biomass based diesel supply. It is not a certainty that facilities currently supplying the California market can easily switch from canola and soybean oil

feedstocks to lower CI feedstock such as tallow and used cooking oil without substantial capital improvements for feedstock pre-treatment. It is possible that some smaller production facilities shut while larger facilities make up for any shortfall.

Some facilities may decide to continue with their current feedstock slate and divert their production volumes away from California to other markets, namely Oregon, Washington, Canada, or the European Union as new low carbon fuel regulations come into effect overseas.

Given the disparate geographic locations of the bio-mass based diesel production facilities, replacing locally, readily available sourced feedstocks with lower carbon intensity feedstocks from far away locations may simply not be logistically or economically viable.

Upon being ineligible for an LCFS credit, sales into the California market are on a par with sales to other locations in the United States with respect to RIN values. After determining other cost factors such as transportation and logistics, a company may well find it in their interest to divert production into states that do not have an LCFS program.

The proposed 20% cap is legally flawed.

As further explained in the Attachment, the manner in which CARB issued the proposal violates the California Administrative Procedure Act by failing to give fair notice. The proposal also fails to comply with CEQA requirements in it's Environmental Impact Analysis which is silent on the potential impacts of the 20% cap. Additionally, under AB32, CARB cannot undertake regulatory activities that interfere with air quality, but modeling suggests that limiting biomass based diesel may do just that. Finally, the proposed rule exceeds CARB's authority by stepping beyond it's role in setting "technology neutral" standards to reduce the carbon intensity of California's transportation fuels.

CARB should clarify that pending biomass-based diesel applications are grandfathered..

The proposed regulation states: "For companies with biomass-based diesel pathways certified prior to the effective date of the regulation…" partly setting a condition upon which the new regulatory provision will take place. This sentence fails to recognize that once an application is made to CARB for the certification of a fuel pathway, the certification date is out of the hands of the applicant and up to CARB for a decision. Theoretically, CARB could decide to approve no new pathways until after the effective date of the new regulation.

ABFA believes that any new pathway applications currently pending approval and then approved by CARB that have been filed before the effective date of the new regulation are grandfathered. Likewise, ABFA believes that any revised pathway applications that are dated before the effective date of the new regulation, once approved, are also grandfathered.

CARB should reconsider the sustainability certification and indirect land use change provisions.

CARB has proposed sustainability certification provisions for all biofuels using crop-based and forestry-based feedstocks. Among the provisions in the 15-Day Notice proposal is a requirement that "Biomass must be produced according to best environmental management practices that reduce GHG emissions or increase GHG sequestration" (see page 172 of the Attachment A-1). The updated Section 95488.9(g)(1) biomass sustainability requirements then include four general criteria for such "best environmental management practices," including maintaining/enhancing biodiversity, enhancing soil fertility and avoiding erosion/compaction, fertilizer management that minimizes runoff, and limiting "unsustainable" water use.

Some members of ABFA believe that Rather than spelling out specific requirements for meeting those criteria that might be of relevance to CARB's authority under the LCFS, CARB defers the interpretation of these criteria to third-party certification schemes developed in the European Union, without detailing how those certification schemes might be applied in practice and deferring to them almost entirely. Such an approach creates tremendous regulatory uncertainty and is likely to result in disparate results across producers and feedstocks. In addition, the criteria and certification approach unfairly burden producers with additional costs that do not appear to have been fully assessed by CARB and without conversely recognizing the GHG reductions being achieved by the farming practices that would be covered by the sustainability certification requirements. As it stands, producers will not be able to realize the additional value for these lower CI feedstocks. CARB must account for these new farming practices in CI calculations in general, but certainly before making the sustainability certification process covering them mandatory. As a guidepost, CARB could consider the optional approach the federal government is taking for crediting climate-smart agriculture practices that reduce or otherwise sequester carbon in the crediting system being developed under Section 45Z of the IRA.

Regardless, ABFA encourages CARB to use universally accepted standards for environmental and social responsibility, from well-recognized certification schemes (e.g., ISCC, RSB). Biofuel producers would like to avoid "doubling up" on multiple certification standards which can be onerous.

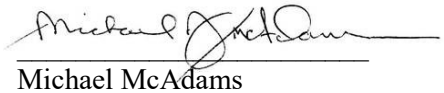
Furthermore, via Section 95488.3(d) and associated Table 6, CARB has given itself the authority to assign a "more conservative" indirect land use change (iLUC) value when it feels that Table 6 "does not accurately reflect" the iLUC of a region/feedstock/fuel. It may also add new feedstocks/fuels to Table 6. Unilateral increases to iLUC values in the table for existing feedstocks like corn ethanol, soy and canola BBD, and new and innovative feedstocks would reduce predictability and be detrimental to the continued development of the market. This change should include a clearer definition of methodology and process that would be used to make these determinations. Furthermore, ABFA suggests CARB's methodology should include flexibility to lower an iLUC value rather than only adjusting iLUC upwards. ABFA recognizes that CARB will be consistently taking a conservative approach to iLUC values but cannot discern a sufficient rationale for CARB to only move iLUC values in one direction.

As with the 20% cap, the Sustainability Certification proposal was introduced in a manner contrary to the Administrative Procedures Act, a point which is also explained in detail in the attachment.

Lastly, ABFA appreciates CARB's specific recognition of sustainable aviation fuel (SAF) within the LCFS framework. CARB's support of bio-based SAF not only provides a clear market signal but also encourages continued investment and innovation in this sector.

Thank you again for the opportunity to submit comments.

Sincerely,



Michael McAdams
President

Attachment: Legal commentary on 2024 Proposed Amendments to the Low Carbon Fuel Standard

1. The Proposed 20% Cap on Credits for Biomass-Based Diesel from Soybean and Canola Oil Is Legally Flawed

a. The Proposed 20% Cap Violates the California Administrative Procedure Act (APA)

Central to the California APA is the principle of fair notice. Fair notice is intended to give the regulated community the opportunity to meaningfully participate in the rulemaking process.[4] As part of its commitment to affording regulated parties fair notice, the California APA requires an agency to publish a 45-day notice similar to the original notice of the proposed action if a change to the initial proposal is "substantial" and not "sufficiently related" to the original text.[5] The 20% cap on LCFS credits for biomass-based diesel (BBD) in Section 95482 of the Proposed 15-Day Changes of the Proposed Amendments (15-Day Changes) is both a substantial change and one that is not sufficiently related to the original text. Offering stakeholders only a 15-day comment period to address this significant new limitation on low carbon intensity fuels eligible to generate credits under the LCFS is contrary to the California APA. [6]

Here, there was no clear indication in CARB's original rulemaking documents that it was contemplating eliminating substantial volumes of renewable fuels from eligibility for credit generation. In particular, the Staff Report of the Initial Statement of Reasons ("ISOR") addresses the issue of crop-based biofuels sustainability criteria in detail, explaining that "[t]o reduce the risk that rapid expansion of biofuel production and biofuel feedstock demand could result in deforestation or adverse land use change, CARB staff are proposing additional guardrails on the use of crop-based feedstocks for biofuel production." CARB then enumerated specific "guardrails." These enumerated "guardrails" did not include a cap or a limit on LCFS credits for biomass-based diesel.[7] CARB appears to have carefully considered the issue of potential land use changes associated with biofuel feedstock as part of the initial proposal and elected *not* to include a cap or limit as a way to address those concerns.

In fact, CARB considered and rejected a Comprehensive Environmental Justice Scenario in the ISOR, which would have included a cap on the use of crop-based fuels at 2020 levels, pending an updated risk assessment to determine the phaseout timelines for high-risk, crop-based feedstocks. We understand CARB may have received comments recommending a cap on credits for BBD, that is not sufficient to put regulated parties on notice of such a dramatic regulatory change. Further, CARB must itself provide adequate notice—it "cannot bootstrap notice from a comment."[8] We encourage CARB to cure the APA deficiency by extending the 15-day comment period to 45 days to allow stakeholders adequate time to address this regulatory proposal with potentially wide-ranging market and environmental consequences.

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[4] Morning Star Co. v. State Bd. of Equalization, 38 Cal. 4th 324, 333 (2006) (explaining the APA works "to ensure that those persons or entities whom a regulation will affect have a voice in its creation, as well as notice of the law's requirements so that they can conform their conduct accordingly").

[5] Cal. Gov. Code § 11346.8(c) ("No state agency may adopt, amend, or repeal a regulation which has been changed from that which was originally made available to the public pursuant to Section 11346.5, unless the change is (1) nonsubstantial or solely grammatical in nature, or (2) sufficiently related to the original text that the public was adequately placed on notice that the change could result from the originally proposed regulatory action.").

[6] *See, e.g.*, Wendz v. Cal. Dep't of Educ., 93 Cal. App. 5th 607, 647 (2023) (finding a violation of fair notice under the California APA when the initial rule did not "on its face" address the changed provision and where the notice of proposed rulemaking provided "no specific indication" that the agency intended to make that change.).

[7] Public Hearing to Consider the Proposed Amendments to the LCFS, Staff Report: Initial Statement of Reasons ("ISOR") (Dec. 19, 2023) at 32.

[8] Wendz, 93 Cal. App. 5th at 648 (citing Fertilizer Inst. v. U.S. EPA, 935 F.2d 1303, 1312 (D.D.C. 1991)).

b. The Recirculated Draft Environmental Impact Analysis Covering the Proposed 20% Cap Does Not Comply with CEQA

CEQA requires agencies to consider the environmental consequences of their actions before approving plans and policies or committing to a course of action on a process. Specifically, agencies must inform decision-makers and the public about the potential environmental impacts of proposed projects (including rulemakings) and reduce adverse environmental impacts to the extent feasible.[9] CEQA requires that a draft Environmental Impact Analysis ("EIA") discuss and consider adverse or beneficial environmental impacts.[10]

The 20% credit cap on certain biofuels in the 15-Day Changes and the accompanying Recirculated Draft EIA fail to comply with CEQA. Nowhere does the Recirculated Draft EIA discuss or consider the potential environmental impacts of capping LCFS credits for certain types of BBD. For example, the language in the Draft EIA and the Recirculated Draft EIA is nearly identical with respect to potential land use changes associated with the Proposed Amendments. Without any additional analysis, CARB concludes that "given that volumes in excess of 20 percent . . . will not be eligible for crediting," "the proposed regulation is not expected to result in significant increases in soy and canola feedstock utilization for biomass-based diesel."[11] Notably absent is any consideration of the potentially detrimental environmental impacts of *excluding* substantial volumes of BBD, including the negative impacts for greenhouse gas (GHG) emissions and other pollutants. It is not clear that CARB has carefully analyze which fuels will increase as a result of these new restrictions and what emissions impacts could be expected across criteria pollutants as well as GHGs. CEQA necessitates evaluation of such potentially consequential adverse environmental impacts of the BBD cap.

In addition, the Recirculated Draft EIA does not square the proposed cap with the fact that CARB's own analysis shows that the likelihood that increased demands on biofuel crops could contribute to direct and indirect land use change "is at least partially (and potentially fully) accounted for by the LUC scores added to crop-derived pathways."[12] If that is indeed the case, it is unclear what purpose the BBD cap serves.

c. The Proposed 20% Cap Is Contrary to AB32

Under AB32, CARB cannot undertake regulatory activities to reduce GHG emissions that interfere with "efforts to achieve and maintain federal and state ambient air quality standards and to reduce toxic air contaminant emissions."[13] The BBD limit is contrary to AB32 in that it could drive increased use of fossil fuels in lieu of renewable fuels with more beneficial air quality emissions profiles.

This concern is borne out in CARB's modeling and evaluation in its ISOR for the Proposed Changes. Specifically, the ISOR's assessment of the Comprehensive Environmental Justice Scenario (which included a cap on crop-based fuels) was projected to produce *fewer* GHG emissions reductions and have worse health outcomes.[14] It results in lower GHG reductions "primarily due to lower amounts of biofuels

[9] Ctr. for Biological Diversity v. Dep't of Fish & Wildlife, 62 Cal. 4th 204, 228 (2015), as modified on denial of reh'g (Feb. 17, 2016) (finding that failure to comply with CEQA "deprive[s] decision makers and the public of substantial relevant information about the project's likely impacts").
[10] 17 C.C.R. § 60004.2.
[11] Recirculated Draft Environmental Impact Analysis for the Proposed LCFS Regulation ("Recirculated Draft EIA") (Aug. 16, 2024) at 35.
[12] Id.
[13] Cal. Health & Safety Code § 38562(b)(4).
[14] ISOR at 124.

entering the market; PM2.5 increases are due to fossil diesel being used instead of renewable diesel."[15] As CARB explained, this is due, in part, to "limitations on lipid biofuels."[16]

In sum, the 20% cap is inconsistent with CARB's mandate to protect air quality while achieving cost-effective GHG emissions reductions. We encourage CARB to thoroughly evaluate the air quality impacts of such a drastic change to the LCFS program as required by Section 38562(b)(4) of the California Health and Safety Code.

d. The Proposed 20% Cap Exceeds CARB's Authority

CARB is responsible for "monitoring and regulating the sources of emissions of greenhouse gasses" to further AB32's goal of "achiev[ing] the maximum technologically feasible and cost-effective greenhouse gas emission reductions."[17] One way that CARB does this is through implementation of the LCFS, which is explicitly aimed at "reduc[ing] the carbon intensity of California's transportation fuels."[18]

The LCFS is a "technology neutral" standard that relies on life-cycle analyses to estimate the carbon intensity of transportation fuels. This "technology neutral" standard complies with AB32, which requires that CARB consider costs to employ technology-neutral and cost-effective approaches to reducing GHG emissions.[19] It exceeds CARB's authority to exclude specific types of biofuels that can cost-effectively achieve the GHG reductions established under the program.[20] Therefore, the cap should be removed from the final regulation.

2. The Sustainability Certification Proposal Is Contrary to the California APA

As explained above, the California APA "is intended to advance 'meaningful public participation in the rulemaking process' and create 'an administrate record assuring effective judicial review.'"[21] As such, CARB must provide the regulated community notice and opportunity to comment on aspects of the core components of the regulatory framework, including the certification system, which may allow for the exclusion of the majority of fuels currently generating LCFS credits.

The 15-Day Changes revise the sustainability certification system but still constitute a broad delegation of authority to third parties operating outside the regulatory process without notice or opportunity to comment by biofuels producers. Critical aspects of the sustainability certification framework such as "environmental, social and economic criteria" and the requirement that biomass be produced "according to the best environmental management practices that reduce GHG emissions or increase GHG sequestration" remain undefined in the proposed regulations.[22] Such certification programs could be unduly burdensome and potentially unlawful, but stakeholders are afforded no opportunity to voice such concerns prior to CARB requiring their implementation.

We encourage CARB to allow the opportunity for public engagement on such core elements of the LCFS regulations consistent with the California APA.

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[15] Id. at 118.
[16] Id. at 116.
[17] Cal. Health & Safety Code §§ 38510, 36569.
[18] Cal. Exec. Order S-01-07 (Jan. 18, 2007).
[19] Cal. Health & Safety Code § 38562.
[20] Water Replenishment Dist. of Southern California v. City of Cerritos, 202 Cal. App. 4th 1063, 1072 (2012).
[21] Voss v. Superior Ct., 46 Cal. App. 4th 900, 908 (1996).
[22] Id. § 95488.9(g)(1)(B).