



August 27, 2024

California Air Resources Board
Low Carbon Fuel Standard Program
1001 I St.
Sacramento, CA 94814

RE: American Biogas Council Comments on the 15-Day Changes Amendments to the Low Carbon Fuel Standard

Dear Chair Randolph and Members of the Board,

The American Biogas Council (ABC) appreciates the opportunity to comment on the proposed 15-Day changes amendments to the Low Carbon Fuel Standard (LCFS). The ABC is the voice of the U.S. biogas industry dedicated to maximizing carbon reduction and economic growth using biogas systems. We represent more than 400 companies leading the way to a better future by maximizing all the positive environmental and economic impacts biogas systems offer when they are used to recycle organic material into renewable energy and soil products. All of this is an effort to protect our air, water, and soil – crucial parts of the solution our members provide to help California meet its environmental and climate goals. The scientifically-based design of the LCFS recognizes the benefits of projects that collect biomethane that would otherwise be emitted to the atmosphere making it available for use in transportation. Millions of gallons of petroleum-based diesel fuel have been replaced with clean biomethane over the past several years delivering substantial reductions in greenhouse gas (GHG) emissions as well as other co-benefits (e.g., reductions in emissions of particulate matter). Furthermore, in August 2023, the California Air Resources Board (CARB) announced that in Q1 2023 clean fuels replaced more than 50% of the diesel used in the state for transportation purposes, equating to nearly two billion gallons of avoided fossil diesel use in 2022.¹ This further underscores the success of the program and continued need for the LCFS to deliver GHG reductions from the transportation sector.

Carbon Intensity (CI) Benchmarks

Over the past two years, CARB staff have held numerous public workshops to gather feedback on potential changes to the program, where ABC participated, and we are happy to see that the rulemaking is nearing completion. Following the release of the 45-day package in December 2023 and subsequent stakeholder feedback urging CARB to increase the carbon intensity (CI) step-down from the proposed 5%, we are pleased to see that staff have proposed a more aggressive step-down of 9% in the 15-day changes. This is a much-needed market correction, to align targets with available supply, which has been delivered to the LCFS program in excess in recent years, creating a credit bank. While this alone will not fully address the oversupply of credits in the cumulative credit bank, this single adjustment will translate into millions of additional tons of GHG emission reductions that would've otherwise gone unabated.

Furthermore, while not significantly modified in the 15-day changes, the ABC would like to reiterate its support for the Auto-Acceleration Mechanism (AAM). The AAM is a necessary complement to the CI target adjustment and as designed, will send a clear, supportive, and unambiguous market signal to continue investments in clean fuels by tightening the program in the event overperformance occurs. Adoption and implementation of this

¹ California Air Resources Board. *For the first time 50% of California Diesel Fuel is replaced by clean fuels.* August 23, 2023. <https://ww2.arb.ca.gov/news/first-time-50-california-diesel-fuel-replaced-clean-fuels>

mechanism will ensure that potential emission reductions are not left on the table and will help California reach its climate goals faster if triggered.

Avoided Emissions Crediting

The proposed amendments in the 45-day package seek to phase out avoided emission pathways for projects that break ground after December 31, 2029, for biomethane used as a transportation fuel through 2040 and for biomethane used to produce hydrogen through 2045. The 15-day changes aim to expand this phase out to projects breaking ground before January 1, 2030, restricting the total number of crediting periods for avoided methane emissions from three consecutive 10-year periods to two. The ABC does not support the phase out of avoided emission crediting in the 45-day package, nor the expanded scaling back from three to two 10-year crediting periods. Eliminating the third 10-year crediting period while facilities still incur operational and maintenance costs places them at a significant disadvantage, potentially leading to shutdowns. This would make flaring emissions more economically viable than capturing methane and bearing the ongoing expenses associated with producing biomethane for use as transportation fuel. Emission reductions continue to occur for the life of the methane capture project (i.e., the biomethane digester's asset life). Therefore, the crediting period for avoided emissions should mirror the asset life of the capture technology, which is greater than 20 years. Additionally, despite the state regulations like Advanced Clean Trucks and Advanced Clean Fleets, CARB should be looking to retain the practice of recognizing avoided methane emissions as a scientifically robust safeguard in the event that the goals stated in these regulations are not met by their respective target date, resulting in more combustion trucks on the road than anticipated. Scaling back to two crediting periods is not necessary and removes the providing an effective backstop in the event there are disruptions with the implementation of the zero emission truck programs. Considering the requirements that CARB is pursuing via deliverability provisions for out of state biomethane, retaining three 10-year crediting periods is even more important to ensure sufficient supplies are available, and to avoid unintended consequences.

As previously noted in our February 16, 2024, comment letter responding to the proposed amendments in the 45-day package, avoided methane emissions are a critical part of science-based life cycle assessments, and their inclusion in CI scores is consistent with internationally recognized standards of carbon accounting. While the ABC understands CARB's intention is to better align the proposed end dates for avoided emission pathways with its mobile source regulations focused on transitioning to electric vehicles, the underlying rationale is being construed by some as science-driven fact rather than a policy decision. Thus, CARB should be explicit that the policy decision to eventually discontinue avoided emissions crediting should not be interpreted as a departure from the established and rigorous science of accounting for the benefits of avoided methane emissions but rather policy oriented.

Additionally, the ABC is requesting that CARB consider adding language to Section 95488.9(f)(3)(A) to further clarify what projects are eligible by adding electricity under the following sentence: *"For pathways for biomethane used to produce hydrogen or electricity that break ground after December 31, 2029, the Executive Officer may only approve avoided methane crediting through December 31, 2045."* The proposed modification is ambiguous seeing as it was also not added to the book-and-claim portions of the regulation.

Deliverability

First, the ABC would like to reiterate that we do not believe the addition of deliverability requirements under the program is necessary. The proposal unnecessarily complicates the program, disadvantages out of state projects that produce low CI-biomethane, and increase program costs without providing any commensurate environmental benefits. Even with deliverability requirements, there will be no change to the way molecules flow through the gas system compared to today. Rather, deliverability requirements will increase costs to renewable fuel producers and will result in a more limited supply coming into California, which will put California in a tougher position to meet their climate goals. The 15-day changes added a provision to section 95488.8(i)(2) that would allow the Executive Officer to approve a gas system map that identifies transcontinental and connected pipelines for which gas flows to California at least 50% of the time. Should the Executive Officer approve this map before July 1, 2026, then entities reporting under bio-CNG, bio-LNG, and bio-L-CNG must demonstrate physical flow to the state 50% of the time after December 31, 2037, not January 1, 2041.

While it appears that the addition of a gas flow map, for which the Executive Officer isn't technically required to approve, may address some implementation questions, this modification does not address the overall lack of detail with the proposal or the reality that an implementation date of 2037 or 2041 will be difficult to achieve. As mentioned in our February 16, 2024, comments, the ABC believes that CARB should require further guidance on the proposed deliverability requirements as they lack detail. The proposed amendments aim to adopt the California Renewable Portfolio Standard (RPS) requirement of ensuring biomethane injected into a common carrier pipeline physically flows towards California 50% of the time. Yet, the referenced RPS framework does not provide any clarity on how these biomethane molecules can be traced to California, how a 50% average flow toward California may be modeled, nor expected geographical indications of regions anticipated to remain eligible for book-and-claim accounting. While the proposed map may aid geographical clarity for some projects, those projects that remain outside geographic boundaries, but may otherwise be able to demonstrate deliverability, are left without clear guidance on how they may meet the requirements. We look forward to discussing these provisions with CARB staff in the coming year and highly encourage CARB to conduct a full and transparent public process to inform any gas maps the Executive Officer may consider.

True-Up Provision

The ABC is pleased to see the proposed amendments to expand the credit true-up to include periods using temporary pathway CIs after annual verification following stakeholder input highlighting the benefits of the credit true-up. Based on our understanding of the language, reporting that is submitted March 31, 2025, will cover the years 2023-2024 and include a credit true-up back to 2023. The proposal includes true-up provisions that adjust credits based on verified operational CIs relative to certified CIs, applying a penalty of four times the spread for shortfalls; however, the justification for this 4X multiplier is unclear, as a smaller multiplier, such as 2X, would still effectively discourage overconfidence in CI analysis. Lastly, we urge CARB to establish a temporary CI pathway for biogas-to-electricity projects, as the absence of such a pathway currently puts biogas-to-electricity at a disadvantage compared to biomethane projects, which already have access to temporary CI pathways.

Definitions

The ABC believes that the modification made to the definition of "Food Scraps" in the 15-day changes does not accurately reflect the spectrum of food waste feedstocks that are landfilled and can support the production of clean renewable transportation fuels. Thus, we propose the following change to the definition of "Food Scraps", which is shown in italics:

"Food Scraps" is the portion of municipal solid waste (MSW) that consists of inedible or post-consumer food collected from residences, hospitality facilities, institutions, and grocery stores, *as well as organic waste materials from industrial food manufacturing and distribution facilities that cannot be eaten by people or animals*. Feedstocks that are not typically landfilled do not qualify as Food Scraps, which include: fats, oils, or greases (FOG), and liquids at the point of collection.

Biomethane derived from food waste is an important decarbonization tool and is necessary to meet the state's climate goals, specifically the state's landmark organic waste diversion law, SB 1383. The currently proposed definition assumes that pre-consumer food waste and food processing wastes including liquid wastes are not landfilled, which is incorrect. Further clarification is needed to illustrate that many of these pre-consumer wastes are often landfilled, and therefore, should be able to qualify for a pathway given that sufficient documentation that it was landfilled is provided as it is a requirement for certification of a LCFS pathway.

Thank you for the opportunity to comment on the modified amendments, and we look forward to engaging with CARB staff on these topics.

Sincerely,



Patrick Serfass, Executive Director

About the American Biogas Council The American Biogas Council is the voice of the US biogas industry dedicated to maximizing carbon reduction and economic growth using biogas systems. We represent more than 400 companies in all parts of the biogas supply chain who are leading the way to a better future by maximizing all the positive environmental and economic impacts biogas systems offer when they recycle organic material into renewable energy and soil products. Learn more online at www.AmericanBiogasCouncil.org, Twitter [@ambiogascouncil](https://twitter.com/ambiogascouncil), and [LinkedIn](#).