



CleanFuture, Inc.

P.O. Box 23813

Portland, OR 97281-3813

office: +1 503 427-1968

e-mail: john@CleanFuture.us

October 16, 2024

Liane M. Randolph
Chair, California Air Resources Board

(Comment submitted electronically)

RE: CleanFuture's Comments on the Low Carbon Fuel Standard Proposal

Dear Chair Randolph:

CleanFuture appreciates the opportunity to provide written comments on the Proposed Amendments to the Low Carbon Fuel Standard ("LCFS") Regulation, as reflected by the second 15-day rulemaking package released on October 1, 2024 (the "LCFS Proposal"). CleanFuture broadly supports the California Air Resources Board's ("CARB's") LCFS Proposal. CleanFuture particularly appreciates and supports the acceleration of the rate of carbon intensity ("CI") reductions, the extension of the CI reduction tables to 2045, and the continued expansion of electrification crediting.

This comment letter ("Comment") is focused solely on the provision that CARB has included in the LCFS Proposal via the language contained in §95488.10(b) that is typically referred to as the "True-Up Provision." From CleanFuture's unique vantage point, the further refinement of the True-Up Provision is a critically important factor in both ensuring the fundamental fairness of the overall LCFS program and in supporting the commercialization of novel technologies including the conversion of biogas to electricity. The implementation of these types of innovative technologies is essential toward achieving the LCFS goal of the CI of California's transportation fuel. However, the True-Up Provision as contained in the LCFS Proposal, does not fully support this central LCFS objective.

CleanFuture is an industry leading company connecting clean vehicle fleet customers with low CI fuels, serving both on the supply and demand side in California's LCFS, Oregon's Clean Fuels Program ("CFP"), Washington's Clean Fuels Standard ("CFS"), and other emerging clean fuel standards. CleanFuture is a designated credit generator and aggregator for hundreds of fleets and thousands of vehicle units for these state CFS programs. CleanFuture provides full-service low carbon consulting to its clients including fleet efficiency; low carbon fuel utilization; clean vehicles and vehicle technologies; and monetization strategies. CleanFuture has worked for over a decade to improve the efficiency of a wide range of vehicle fleets. CleanFuture is the leading supplier of renewable electricity from biogas as a transportation fuel to heavy-duty EVs in California's LCFS and Oregon's CFP. We also serve as a third-party aggregator and supply funding to fleets to incentivize and advance heavy-duty vehicle

electrification and charging stations, while improving economics for biogas to renewable energy projects.

The operative language of the True-U Provision is as follows¹:

§ 95488.10. Maintaining Fuel Pathways.

(...)

(b) Credit True Up after Annual Verification. Beginning with the 2025 annual Fuel Pathway Report data reporting year, the Executive Officer may perform credit true up for a fuel pathway, including a temporary pathway used by an entity that subsequently receives fuel pathway certification for the associated production facility, that has a lower verified operational CI upon receiving a positive or qualified positive verification statement for the associated annual fuel pathway report and quarterly fuel transactions reports, notwithstanding the prohibition on retroactive credit generation in section 95486(a)(2). To implement this true up, the Executive Officer will calculate an equivalent number of credits representing the difference between the reported CI and the verified operational CI from annual Fuel Pathway Reports for each fuel pathway code reported with non-liquid transaction types and with the following liquid fuel transaction types “Production in California,” “Production for Import,” and “Import” during a compliance year, and place those credits in the account of each appropriate fuel reporting entity after August 31 for the prior compliance year. Only reporting quarters for which complete operational data are reported in the applicable AFPR are eligible for credit true up of a temporary fuel pathway.

The credits will be calculated according to the following equation:

$$\begin{aligned} & \text{Credits}_{CI \text{ difference}}^{FPC} (MT) \\ &= \left(\text{Credits}_{verified \text{ operational CI}}^{FPC} (MT) - \text{Credits}_{reported CI}^{FPC} (MT) \right) \end{aligned}$$

If $\text{Credits}_{CI \text{ difference}}^{FPC} > 0$

where:

$\text{Credits}_{CI \text{ difference}}^{FPC}$ is the number of credits representing the difference between the reported CI and verified operational CI for each fuel pathway code;

$\text{Credits}_{verified \text{ operational CI}}^{FPC}$ is the number of credits calculated using $CI_{verified \text{ operational}}^{XD}$ instead of $CI_{reported}^{XD}$ in the equation in section 95486.1(a)(1). $CI_{verified \text{ operational}}^{XD}$ is determined by the Executive Officer on the basis of the annual Fuel Pathway Report submitted pursuant to section 95488.10 for each fuel pathway code; and

$\text{Credits}_{reported CI}^{FPC}$ is the number of credits calculated using equation in section 95486.1(a)(1) for each fuel pathway code.

(...)

¹ This version shows in marked-up format all proposed changes made to the current LCFS regulation during the LCFS rulemaking process as reflected in Attachment A-1.2 referenced in the Notice as “Proposed Second 15-Day Modifications to Proposed Regulation Order (First and Second 15-Day Modifications and 45-Day Modifications combined and compared to existing regulatory text) in Alternative format as released with the second 15-day package and available at https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2024/lcfs2024/2nd_15day_atta-1.2.docx

The fundamental goal of the True-Up Provision was to address a recurring problem that CARB's ten years of experience in administering the LCFS program had revealed: for the lowest CI fuels that can deliver the greatest climate benefits through the avoidance of fugitive methane emissions, there is the highest degree of variability in terms of facility performance. Even without fault or negligence on behalf of the people who design and run these facilities, there can be exceedances of a pathway CI score that cannot be identified until months after the variability occurred and may not be precisely determined until the conclusion of the verification in August of the following year. It is for this critical reason that the True-Up Provision was proposed.

On its face, it appears that the LCFS Proposal resolves this problematic issue promptly with the language, "Beginning with the 2025 annual Fuel Pathway Report data reporting year, the Executive Officer may perform credit true up for a fuel pathway (...)." However, CleanFuture has had detailed communications with CARB staff in the last several weeks that have revealed that effective implementation of the True-Up Provision is years away.

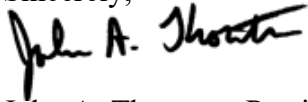
In particular, CleanFuture has sought CARB staff assistance to make a modification to an existing pathway to align the CI score with facility performance. CARB staff has advised that the reference in the LCFS Proposal is to the Annual Fuel Pathway Report ("AFPR") **for the operational year of 2025 containing data from 2024-2025**. AFPRs for the operational year of 2025 are not due until the end of first quarter 2026, and are not verified until August of 2026. This time delay creates a three-year period of the True-Up Provision being rendered ineffectual. Specifically, the performance of fuel pathways for calendar year 2023 has only just been determined based on the verifications that just completed in August of 2024. Similarly, the performance of fuel pathways for calendar year 2024 may not be completed until August of 2025 and the performance of fuel pathways for calendar year 2025 may not be completed until August of 2026. Thus there exists a three-year period during which the LCFS Proposal will not effectuate the central purpose of the True-Up Provision: to create a prescribed method for reconciling CI exceedances.

To avoid this delay in the effective implementation of the critically important True-Up Provision, CleanFuture would recommend this slight modification to the language contained in the LCFS Proposal:

(b) *Credit True Up after Annual Verification.* Beginning ~~with the in 2025 annual Fuel Pathway Report data reporting year~~, the Executive Officer may perform credit true up for a fuel pathway, including a temporary pathway used by an entity that subsequently receives fuel pathway certification for the associated production facility, that has a lower verified operational CI upon receiving a positive or qualified positive verification statement for the associated annual fuel pathway report and quarterly fuel transactions reports, notwithstanding the prohibition on retroactive credit generation in section 95486(a)(2).
(...)

Thank you for your consideration of these comments. Please advise if any further input on these issues would be constructive.

Sincerely,

A handwritten signature in black ink that reads "John A. Thornton".

John A. Thornton, President
CleanFuture, Inc.