NESTE

October 16, 2024

VIA ELECTRONIC FILING

Ms. Rajinder Sahota
Deputy Executive Officer - Climate Change & Research
California Air Resources Board
1001 I Street
Sacramento, Ca 95814

Re: Neste Comments on Proposed Low Carbon Fuel Standard (LCFS) Regulation Published on October 1, 2024

Dear Ms. Sahota:

Neste appreciates the opportunity to provide these comments to the California Air Resources Board (CARB) regarding the draft LCFS regulation 15-day package published on October 1, 2024. These comments are in addition to the comments submitted by Neste for the 45-day regulatory package[1], the April 10, 2024 LCFS Workshop[2], the August 12, 2024 15-day package[3] and the recirculated EIR[4], and all of our recommendations should be considered as part of this LCFS rulemaking.

Neste appreciates the work that has been done on this rulemaking and remains in strong support of the LCFS program. The LCFS program has an outstanding record of success in reducing emissions from the transportation sector in the state of California. The new proposed targets will ensure that the program continues to achieve high levels of emission reductions. We urge the rule's adoption at the November 8, 2024 CARB Board hearing. In addition, Neste also supports the positive changes proposed to the Automatic Acceleration Mechanism (AAM).

For considerations for improvement, we raise a concern with the cost implications of the various proposals that affect renewable diesel (RD) and SAF. These cost implications may lead to avoidable higher costs for consumers and renewable fuel supply instabilities without delivering significant environmental improvements as compared to CARB's proposals in the 45-day regulatory package. Neste recommends that CARB reprioritize technology neutrality to ensure that California consumers receive renewable energy at the lowest cost possible. Focusing on the renewable energy needs of nearby jurisdictions is counterproductive because climate change is a global phenomenon and any GHG emissions reductions will result in global benefits.

Neste continues to recommend the following as part of the LCFS rulemaking to protect consumer fuel prices, to continue incentivizing investments in liquid renewable fuels, and to be more aligned with the 45-day package published in December 2023:

- Reject the proposal giving CARB the discretion to not accept new RD pathway applications and reaffirm CARB's policy of technology neutrality (95488(d));
- Apply an immediate CI step-down of **12%** (and not the proposed 9%) in 2025 to adequately address the large credit bank and more quickly stabilize the credit prices;

[1] https://www.arb.ca.gov/lists/com-attach/6974-lcfs2024-B2lUN1YkACcLaARb.pdf
[2] https://ww2.arb.ca.gov/form/public-comments/submissions/11066
[3] https://www.arb.ca.gov/lists/com-attach/7564-lcfs2024-AG4HZFUnACcGZQNc.pdf
[4] https://www.arb.ca.gov/lists/com-attach/16-eiarecirc_lcfs2024-WjRUN10vUnULaAlW.pdf

    - ICF has shown that a step down of 20.25% is needed[5] and the credit market continues believe that more is possible;
- Start applying the CI Automatic Acceleration Mechanism (AAM) proposed by CARB in 2026 (using 2025 data) and not wait until 2027 to address overperformance in the LCFS credit market should it persist;
- Do not add the additional changes to the sustainability requirements (95488.9(g)) proposed in the August 2024 15-day package without recognizing the associated GHG reductions. This will only lead to higher costs; and
- Eliminate the proposed 20% cap on soybean, sunflower and canola oil (95482(i)). Such a cap is likely to increase use of fossil diesel and jet fuel as stated by CARB at the April 10th workshop[6], and lead to avoidable RD and SAF price increases.

Neste also recommends the above changes in light of the August 2024 Recirculated EIR, noting on page 51 and 52 that RD and biodiesel represent the largest source of NOx and PM emissions reductions from this rulemaking[7]. Proposals to disincentivize RD and BD could therefore have real consequences in terms of negatively impacting air quality. In fact, CARB recently stated that California met its GHG reduction goals "due largely to the increased use of renewable fuels"[8]. Why alter the course of the LCFS when it is clearly achieving the desired outcomes?

Below is a detailed discussion of the analysis presented in this October 2024 15-day package. Neste also supports the comments from the Low Carbon Fuels Coalition (LCFC) and ICF on this rulemaking. We appreciate your consideration.

Neste Supports Moving the Automatic Acceleration Mechanism (AAM) Trigger Review to Quarterly; The AAM Should Start in 2026 (95484)

Neste supports moving the AAM trigger review to a quarterly basis because it will bring more clarity to how the LCFS will respond to overperformance. Reviewing the AAM trigger on a quarterly basis will reduce speculation in the credit market by simply cutting the time between reviews of whether the AAM should be triggered. If, for example the trigger review deadline in May has just passed, but for some reason the credit bank starts increasing significantly during the second half of the year, (for example, a new large supplier opens up in the market), market participants would be left in the dark until May of the following year about whether or not the AAM will be triggered. Moving the review to a quarterly basis will allow market participants to know more quickly how the LCFS will respond to pressures in the credit market.

Neste continues to believe that the AAM should start in 2026 (using 2025 data) given how large the credit bank is today. Waiting until 2027 will delay possible emissions reductions and investments in new production.

Reject the Proposal to Give CARB Discretion to Stop Accepting New RD Pathway Applications (95488(d))

Neste continues to be concerned by CARB proposing to stop accepting new pathway applications for biomass-based diesel starting in 2031 if certain ZEV mandates are met in 2029 (95488(d)). Neste strongly objects to this arbitrary proposal. It will bring uncertainty to the RD market precisely when companies are evaluating further investments into SAF production. Given the interconnectivity between the economics of SAF and RD, we see this as possibly hurting SAF in the long-term.

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[5] https://www.arb.ca.gov/lists/com-attach/7078-lcfs2024-VDVcNFIyVGsLdFQu.pdf
[6] https://ww2.arb.ca.gov/sites/default/files/2024-04/LCFS%20April%20Workshop%20Slides.pdf, slide 21
[7] https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2024/lcfs2024/recirculated_draft_eia.pdf
[8] https://ww2.arb.ca.gov/news/california-greenhouse-gas-emissions-decline-across-most-sectors

The Newly Proposed Sustainability Requirements in 95488.9(g) Could Increase Costs

Neste continues to recommend that CARB provide additional economic incentives to compensate for the proposed sustainability requirements. These new requirements could potentially have a positive impact on sustainability standards of the industry but will also bring complexity and additional costs to the value chain. Farmers will need to comply with a set of requirements to certify at the farm-level with no clear way of offsetting these cost increases. We therefore recommend that CARB provide economic incentives in the form of recognizing the emissions reductions from the adoption of climate smart practices like no-till or use of cover crops. The economic incentives will support compliance with this new requirement, and better performers would be awarded even more value which will incentive further innovation.

Neste also believes that the new sustainability requirements are still not well defined, and we encourage CARB to provide more specific guidelines on how to certify the entire value chain. Hopefully this can be done soon given how quickly CARB is proposing to implement the new sustainability requirements. Until CARB is able to provide this clear guidance, Neste recommends that CARB not punish producers by treating renewable fuels as their fossil equivalents if they are not compliant with all sustainability requirements as proposed in section 95488.9(g)(4). The entire value chain should have the information needed to comply before CARB enacts such a severe penalty, therefore Neste recommends that section 95488.9(g)(4) not apply until 2031.

Reject the Proposed 20% Cap on Soybean, Sunflower and Canola oil (95482(i))

Neste continues to oppose the proposal to cap soybean oil and canola oil to 20% of production at the company level (95482(i)). We also oppose the addition of sunflower to the cap. It is unclear how the cap will apply, it will incentivize use of fossil fuels and could lead to cost increases for consumers while not achieving much environmental benefit. Compliance with this requirement will be virtually impossible to manage at the corporate level because major producers such as Neste do not always have control over where our products ultimately end up.

The proposed cap is also arbitrary and provides no exceptions for crops that have zero land use change risk. Neste believes there should be exemptions for feedstocks that meet the definition of Intermediate Crop, and such feedstocks should remain out of this cap. The EU's Annex IX definition for intermediate crops is: "Catch crops and cover crops that are grown in areas where due a to short vegetation period the production of food and feed crops is limited to one harvest and provided their use does not trigger demand for additional land, and provided the soil organic matter content is maintained, where used for the production of biofuel for the aviation sector". This cap could restrict the development of vegetable oil alternatives that have scalability and additionality potential, and California could become even more dependent on renewable energy technologies that are unproven and much more expensive.

The LCFS Should Treat All Hydrogen the Same; Even When Used as a Feedstock (95488.9(i))

Hydrogen is a key feedstock in the production of RD and SAF, and Neste has invested in the development of hydrogen using low-CI electricity at our Porvoo, Finland refinery[9]. We hope to perfect this technology and eventually use it at all our refineries, including our Martinez Renewables Joint Venture plant in Martinez, California. Being able to leverage book-and-claim is essential because low-CI electricity is not always available near production facilities to produce green hydrogen. Neste was under the impression that section 95499.9(i)(1)(C) allowed for green hydrogen produced from low-CI electricity to leverage book-and-claim to produce lower CI RD and SAF. However, page 6 of the "Tier 1 CI Calculator for HEFA Fuels

[9] https://www.neste.com/en-us/news/neste-has-been-granted-energy-investment-aid-for-its-green-hydrogen-project-at-the-porvoo-refinery

Instruction Manual" states that book-and-claim of low-CI electricity is not allowed in this case[10]. Neste is disappointed that CARB is treating hydrogen used as a fuel differently than hydrogen used as a feedstock, when they are both ultimately used as fuels. Neste requests that CARB not styme innovation and allow RD/SAF producers to use book-and-claim for the generation of green hydrogen. Efforts to produce green hydrogen for RD/SAF could bolster overall innovation around the production and use of green hydrogen.

Thank you for considering our comments. We look forward to continuing to work with CARB on this rulemaking and urge its adoption at the scheduled November 8, 2024 meeting

Oscar G

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10 https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2024/lcfs2024/instr.manual_tier1_ci_calc_hydroprocessed_ester_%26_fatttyacid_fuels.pdf