



COUNTY SANITATION DISTRICTS OF LOS ANGELES COUNTY

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Ms. Christina Zhang-Tillman
California Air Resource Board
1001 "I" Street
P.O. Box 2815
Sacramento, California 95812

Comments on the Proposed Draft California Low Carbon Fuel Standard Regulation

Dear Ms. Zhang-Tillman:

The Sanitation Districts of Los Angeles County (Sanitation Districts) appreciate this opportunity to comment on CARB's *Draft California Low Carbon Fuel Standard Regulation* (Draft LCFS), revised in December 2008. The Sanitation Districts provide environmentally sound, cost-effective wastewater and solid waste management for about 5.3 million people in Los Angeles County and, in the process, convert wastes into resources such as reclaimed water, energy, and usable recycled materials. The Sanitation Districts' service area covers approximately 800 square miles and encompasses 78 cities and unincorporated territory within the County through a partnership agreement with 24 independent special districts. The Sanitation Districts have also played a significant role over the years reducing air emissions and developing many state-of-the-art emissions controls for our solid waste management and wastewater treatment operations that are now industry standards.

The Sanitation Districts produce treated wastewater and biosolids from our wastewater facilities. At several large remote facilities, thousands of acres of otherwise non-productive or marginally productive farmland are employed to reuse treated wastewater to irrigate fodder crops such as alfalfa, sudangrass, and grain hay for animal feed. Recently, we began evaluating the potential for applying composted biosolids and treated wastewater at our remote facilities to grow biofuel crops. We believe that beneficial reuse of these wastewater treatment byproducts could provide a small but sustainable portion of California's clean transportation fuel production capacity. Moreover, utilization of biosolids as a soil amendment has the added benefit of potentially sequestering carbon when compared to commercial fertilizer use in California agriculture. We believe such use of non-productive or marginal farmland for biofuel crop production in conjunction with wastewater and biosolids reuse is a benefit to California and should be encouraged in the LCFS.

Given that the underlying goal of the LCFS is to reduce GHG emissions, the Sanitation Districts recommend broadening the scope of the proposed LCFS to encourage development of clean fuel projects. The proposed LCFS should recognize waste-derived alternative fuel and power projects as potential credit generating opportunities. These should not be mandated in any way given the technological challenges associated with them and the extreme difficulty in siting such projects.

Pursuant to discussions during the CARB Public Meeting held on December 2, 2008 at Cal/EPA Headquarters in Sacramento, we understand that comments in our letter to CARB, dated July 15, 2008, regarding the Proposed Concept Outline for the California Low Carbon Fuel Standard Regulation, will be addressed in a later revised draft of the December 2008 Draft LCFS. In addition to our previous comments, we also have the following comments on the Proposed Draft California Low Carbon Fuel Standard Regulation, dated December 2008:

1. Section 95424(a)(5), defines the regulated party for natural gas (including CNG, LNG, and biomethane) and LPG “is the person that holds title to the fuel immediately prior to delivery of the fuel to the facility at which the fuel is dispensed to motor vehicles.” The reference to the person holding “title” is unclear and may incorrectly transfer the responsibility of the regulated party to a middle-party. The Sanitation Districts recommend this language be modified to avoid potential confusion.
2. The terms “not compliant,” “in violation,” and “out of compliance but not significantly out of compliance,” in Section 95424(b) is not clearly defined, and allows for possible erroneous subjective interpretation. The Sanitation Districts recommend these terms be defined more clearly in the LCFS.
3. The “deficit clearance period” is not clearly defined in Section 95424(b)(4). For example, Sections 95424(b)(4)(A)&(B) stipulate that a regulated party must reconcile any deficit by the December 31st of that year, however Section 95424(4)(b)(C) stipulates that a regulated party must clear any deficit in any given compliance period by the end of the next compliance period. The Sanitation Districts recommend the “deficit clearance period” be defined as the December 31st of the next compliance period for the LCFS.
4. In order to perform a proper accounting of LCFS credits and debits and clear any LCFS deficit within the “deficit clearance period” at the end of the following compliance period, the Sanitation Districts recommend removing the quarterly reporting requirements, and only require annual reports as stipulated Section 95424(c)(1)(B) to lessen the burden and provide a self

checking audit of the LCFS balance reported in the annual report and at the end of the deficit clearance period.

5. The requirement for the regulated party to provide evidence of the physical pathway for at least 95 percent of the fuel from its original production and then subsequent transfer into California as stipulated in Section 95424(d)(2) is cumbersome, and impossible to accurately trace if the final regulated party is towards the end of a complicated fuel pathway. The Sanitation Districts recommend the regulated party only be required to provide proof of purchase or transfer of title from the immediate vendor for whom they obtained the fuel.
6. Violations and penalties as stipulated in Section 95424(e) are severe, especially since one of the goals is to incentivize the production and use of low carbon transportation fuels in California. The Sanitation Districts recommend these violations and penalties be removed and replaced with provisions that reward parties willing to produce fuel in accordance with the LCFS.
7. The 20 percent credit rollover cap as stipulated in Section 95425(c)(1) is unnecessary and limits a regulated party in the management of the generated credits. The Sanitation Districts recommend removing the rollover cap and allow the regulated party to apply the generated credits in the LCFS without restriction.
8. Section 95425(c)(2) stipulates an external 3rd party entity that is not a regulated party or acting on behalf of a regulated may not purchase, sell or trade LCFS credits. The Sanitation Districts recommend if a regulated party generates credits and banks it for later use, the party should still be able to access these credits even if they no longer are regulated party for any reason.
9. Section 95425(c)(3) stipulates credits may be used to comply with other greenhouse initiatives, including programs in AB 32, but credits generated from outside the LCFS program including programs in AB 32 cannot be used in the LCFS. The Sanitation Districts recommend if credits can be exported from LCFS to particular greenhouse initiative program, then credits generated within the same greenhouse initiative program be allowed to be imported into the LCFS.


One of the initial goals of the *Proposed Concept Outline for the California Low Carbon Fuel Standard Regulation*, dated March 2008 was to incentivize industry to invest in the advancement of low carbon transportation fuel through the regulatory mechanism of emission

credit generation, banking and transfer from the LCFS with other GHG emission reduction programs in California. The Draft Low Carbon Fuel Standard Regulation, dated December 2008, has evolved from its initial proposed concepts into a highly stringent and restrictive regulation that employs cumbersome accounting, recordkeeping, reporting, and severe penalties for non-compliance. Furthermore, waste-derived alternative fuels and power, which involve many technological challenges and extreme difficulties in siting, have not been included in the proposed LCFS. As described in our July 15, 2008 comment letter, waste-derived fuels and power offer a cleaner alternative to the commercially available fuels and power while also providing a mechanism to manage existing waste streams, which benefits the environment, the stakeholders and the public. The Sanitation Districts recommend the proposed LCFS be amended to include a new section dedicated specifically for waste-derived fuels and power allowing potential credit generation without restrictive mandates and penalties to help mature these technologies and assure their long term penetration into the economy.

The Sanitation Districts greatly appreciate this opportunity to comment on the proposed LCFS and look forward to working with CARB in our mutual goal of reducing GHG emissions. If you have any questions regarding this transmittal, please do not hesitate to contact me at (562) 908-4288, extension 2113.

Very truly yours,

Stephen R. Maguin

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