



April 14, 2009

The Honorable Mary Nichols
Chairman, California Air Resources Board
1001 I Street
Sacramento, CA 95814

Re: Comments on the Low Carbon Fuel Standard relating to Transportation Electrification

Dear Chairman Nichols,

We applaud the California Air Resources Board (CARB) for its work in developing the proposed Low Carbon Fuel Standard regulation that can spur the creation of a new generation of clean transportation fuels and is a critical component of the State's plan for meeting its 2020 greenhouse gas reduction goals under AB 32.

The undersigned organizations strongly support CARB's adoption of the Proposed Regulations to Implement the Low Carbon Fuel Standard (LCFS), dated March 5, 2009. We also recommend that the Board include the language described below as additions to the Board Resolution to adopt the LCFS.

The undersigned organizations are a diverse group, but are united by a twenty-year interest in the use of electricity as an ultra-low carbon fuel. We believe there are complex issues that need to be addressed to secure the very substantial greenhouse gas reductions from the use of electricity as a transportation fuel. As such, we recommend that CARB adopt three Board Resolutions which will allow for more time to work on these issues with stakeholders, including the California Public Utilities Commission (CPUC), and report back to CARB at its next hearing on the LCFS in December 2009.

We ask CARB to adopt the following three Board Resolutions. Our rationale for the three resolutions and our suggested language is provided below:

1. Resolution on Definition of Regulated Party for Electricity.

“BE IT FURTHER RESOLVED that the Board directs staff to continue to work with the CPUC and other stakeholders on the definition of Regulated Party for Electricity in Section 95484 (a)(6), and the appropriate recipient(s) and generator(s) of the LCFS credits, and return to the Board by December 2009 with recommended modifications to the regulation, as appropriate;”

The CPUC staff asked CARB staff for additional time to address this issue and recommended the language above, on March 5, 2009. The regulatory framework surrounding the electric sector makes electricity a challenging fuel to address. For example, both CARB and CPUC staff will need to determine how the LCFS definition can conform to (and not be in conflict with) existing regulations governing the electricity market, including those governing the sale and resale of electricity. Regulators and stakeholders will also need to understand how to best develop a framework that will provide benefits to electric transportation (ET) customers and facilitate the use of electricity as a transportation fuel. If given the additional requested time, we believe a cooperative framework can be developed that is superior to the current competitive framework in the proposed regulation. We recommend more time be taken to sort through the many issues to make sure the details are right.

2. Potential Cross-Sector Transfer of GHG Compliance Costs.

“BE IT FURTHER RESOLVED that the Board directs staff to: 1) conduct a study to evaluate if displacing petroleum transportation fuels with electricity leads to a cross-sectoral shift in GHG compliance costs and other costs, and the effect of any such shift; and 2) conduct a study and hold one or more public workshops to determine how the Low Carbon Fuel Standard should best work with other programs in the AB 32 Scoping Plan to ensure that the use of electricity as a transportation fuel is not discouraged, and to send the right price signals to consumers; and 3) return to the Board by December 2009 with recommendations, as appropriate;”

We are requesting this Board Resolution for staff to work with stakeholders on this issue to ensure that the appropriate price signals are conveyed to consumers, and that the State’s regulations, incentives, and programs are coordinated to facilitate electric transportation and the State’s carbon reduction goals. Because the LCFS for electricity needs to work with several regulations (most under CARB control) we recommend that a process be set up to address this big picture. We believe the goal should be that (1) any barriers be addressed, and (2) the regulations adopted by the CARB and the CPUC with respect to electricity work together. There are many moving parts to the State’s GHG reduction and electrification goals. More time is needed to understand and remove any barriers, to coordinate the market with existing and proposed programmatic measures, and to send the proper price signals to both electric and gasoline consumers.

3. Eligibility of Forklifts and other Non-Road Electric Transportation.

“BE IT FURTHER RESOLVED that the Board directs staff to develop a mechanism to allow generation of LCFS credits from new categories and applications of electric forklifts and similar electric non-road vehicles and equipment, and to further increase market penetration in existing categories and applications, and return to the Board by December 2009 with recommended modifications to the regulation, as appropriate;”

The LCFS Regulation currently provides that certain non-road applications such as electric forklifts and similar equipment are ineligible to generate LCFS credits. Our concern is that the proposed regulation misses an important opportunity to capture GHG emissions reductions by excluding electricity in much of the non-road sector, but allowing non-road fuels that produce more carbon than electricity to be eligible for LCFS credit. The non-road sector has potential for significant near-term greenhouse gas reductions using electricity for fuel. For example, the California Alternative Fuels Plan adopted by both CARB and the California Energy Commission estimated potential GHG emissions reductions of 2.2 million metric tons per year by 2022 from electric forklifts and electric truck refrigeration units alone¹. Clearly more time is needed to sort through the issues so that these reductions can be encouraged and secured.

Thank you for your work to make California a leader in reducing greenhouse gas emissions and air pollution, and for your consideration of these comments and recommendations.

Sincerely,

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¹ AB 1007 Scenarios, Electric Drive Technologies, California Energy Commission, proceeding for the AB 1007 California Alternative Fuels Plan, see “Aggressive Scenario” on pages ES-4 and ES-5, June 4, 2007.

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