



October 16, 2024

Chair Liane Randolph
California Air Resources Board
1001 I Street
Sacramento, CA 95814

Re: Comments on the October 1st 15-day Package

Submitted via email with attachments: cotb@arb.ca.gov

Dear Chair Randolph and members of the California Air Resources Board:

The Clean Fuels Alliance America (Clean Fuels)¹ and California Advanced Biofuels Alliance (CABA)² appreciate the opportunity to provide comments on the second 15-day package (2nd 15-day Notice) that was published on October 1, 2024. Clean Fuels and CABA have been longtime supporters of the state's overall climate and air quality improvement goals and have collaborated frequently with CARB staff toward achieving those goals. We have been strong partners with California in its long-term efforts to decarbonize its transportation sector, with its vast portfolio of policies, regulations and incentives that target high priority zero emission technologies and the hugely successful Low Carbon Fuel Standards - the hallmark policy that champions a market-based approach to decarbonizing transportation fuels by being science-driven, fuel-neutral, technology-agnostic, and performance-based. CARB set out a lofty goal to reduce GHG emissions and the members of Clean Fuels and CABA responded swiftly and overwhelmingly to that call...with innovation and investment throughout the supply chain.

Overview

On October 1, 2024, CARB released a second 15-day package that included new proposed amendments to the LCFS following earlier proposals released in December 2023 (the Initial Statement of Reason) and August 2024 (1st 15-day notice).

¹ Clean Fuels Alliance America (Clean Fuels) is the U.S. trade association representing the entire biodiesel, renewable diesel, and sustainable aviation fuel supply chains including producers, feedstock suppliers, and fuel distributors serving the on- and off-road applications, rail, marine, and heating oil markets. Made from an increasingly diverse mix of resources such as recycled cooking oil, soybean oil, and animal fats, the clean fuels industry is a proven, integral part of America's clean energy future.

² California Advanced Biofuels Alliance is a not-for-profit trade association promoting the increased use and production of advanced biofuels in California. CABA represents biomass-based diesel (BMBD) feedstock suppliers, producers, distributors, retailers, and fleets on state and federal legislative and regulatory issues.

Our comments submitted on [February 20, 2024 on the Initial Statement of Reason](#) focused on the provisions to:

- 1) Strengthen the CI reduction targets.
- 2) Introduce sustainability provisions for crop-based biofuels and the lack of much-needed updates to the indirect land use change model (GTAP).
- 3) Remove the exemption for fossil jet fuel.

Our comments submitted on [August 27, 2024 on the first 15-day notice](#) focused on our:

- 1) Strong support of the proposed carbon intensity (CI) targets.
- 2) Strong opposition to the proposed 20% limit on credit generation from biodiesel and renewable diesel made from soybean and canola oil.
- 3) Continued concern over the sustainability provisions and CARB's unwillingness to update GTAP over the past decade despite our repeated requests.

To the extent our comments noted above have not been addressed in this rulemaking, our comments remain in effect and the above comment letters are incorporated herein by reference.

The 2nd 15-day Notice

The Second Notice of Public Availability of Modified Text and Availability of Additional Documents and/or Information for the Proposed Low Carbon Fuel Standard Amendments (2nd Notice) proposed further changes – most notably to Section 95482(i) (Fuels Subject to Regulation):

“Biomass-based diesel produced from soybean oil, canola oil, and sunflower oil is eligible for LCFS credits for up to twenty percent combined of total biomass-based diesel annual production reporting, by company, based on the following transaction types: production in California, produced for import, and import. Any reported quantities of biomass-based diesel produced from soybean oil, canola oil, and sunflower oil in excess of twenty percent on a company-wide basis will be assigned a carbon intensity equivalent to the carbon intensity benchmark shown in Table 2 in Section 95484(e) for the applicable data reporting year, or the certified carbon intensity for the associated fuel pathway – whichever is greater. For companies which have submitted a biomass-based diesel pathway certification application under CA-GREET3.0 or which have a certified biomass-based diesel pathway prior to the effective date of this regulation, this provision takes effect beginning January 1, 2028.”

While the proposals in the 2nd 15-day notice are an improvement from the 1st 15-day notice, Clean Fuels and CABA remain highly concerned over the continued presence of limitations in both 15-day notices applied to credit generation from agricultural lipid feedstocks. We continue to question the absence of any technical or scientific reason for needing a limit or the proposed timeline, especially when such a limit has not been shown as warranted by the only land use change (LUC) modeling tool permitted under the LCFS regulation, Purdue

University's Global Trade Analysis Project (GTAP). We feel strongly that the CI targets should continue to be the primary method to decide which fuels participate in the LCFS and that the continuation of a fuel-neutral approach to the LCFS is imperative to maintain and improve upon its success; picking winners and losers will only distort the clean fuels market.

Additionally, by limiting the use of certain biofuels from participating in the LCFS, CARB's own analysis showed that more GHGs and other pollutants would be emitted, leading to higher health costs.³ The analysis also found that there would not be sufficient credits available to comply with the CI targets, which would lead to higher costs to comply with the LCFS which would be passed on to fuel consumers.

Implementing the proposals in the 2nd 15-day notice will also:

- Substantially constrain the supply of feedstocks needed to provide California with lower carbon options, leading to the return of fossil diesel as discussed by CARB staff at their April 10, 2024 workshop.
- Delay decarbonization – for every 5 years of delay, 13 times more emissions reductions will be required to have the same climate impact⁴.
- Work against efforts to promote sustainable and climate smart farming practices under development by the agricultural community.

We also raise concerns about the rationale behind setting an arbitrary limit on credit generation from feedstocks grown predominantly outside California. The affected feedstocks, including soybean oil, canola oil, and sunflower oil, are mostly produced in the Midwest and are not a primary resource for California's biodiesel or renewable diesel producers, who rely more heavily on waste lipids. Notably, there isn't even a certified fuel pathway for sunflower oil, which is mainly produced in states like North and South Dakota, Minnesota, Texas, and Nebraska, all of which are also key producers of soy and canola. Instead of focusing the credit limit on feedstocks from "high risk" non-North American regions, as suggested in the Staff Report, the proposal extends the limit to all crop-based feedstocks, including those grown in North America. This is done without clear evidence of significant land use change in North America due to the LCFS.

By removing the proposed credit limits or applying them in a rational, targeted manner towards regions that are "high risk" for land conversion, CARB can help ensure that the rules governing the LCFS are both practical and conducive to market stability, thereby encouraging continued investment in clean energy technologies.

³ <https://ww2.arb.ca.gov/sites/default/files/2024-04/LCFS%20April%20Workshop%20Slides.pdf>

⁴ Joos et al, Carbon dioxide and climate impulse response functions for the computation of greenhouse gas metrics: a multi-model analysis, [acp-13-2793-2013.pdf \(copernicus.org\)](#).

Specific to the proposed language in Section 95482(i), Clean Fuels and CABA supports modifying the credit limit or implementing it so that it applies only to non-North American crop-based feedstocks. We also support pushing back the effective date of the credit limitation to 2028 which gives industry the time it needs to adjust to these provisions. Further, we support the removal of 2023 reported data being used to determine when the credit limitation becomes effective, which is arbitrary and without technical merit. We also support the addition that fuel pathway applications submitted prior to the effective date of the regulation be included in the credit limitation as it provides additional flexibility to the industry as it plans for the future.

Clean Fuels and CABA also understands that CARB has had discussions with the US Department of Agriculture (USDA) on many issues related to domestic feedstock production. We encourage CARB to strengthen its collaboration with the USDA to address critical issues related to feedstock production and climate-smart agricultural practices. Given the USDA's expertise and initiatives in promoting sustainable farming and climate resilience, working closely with them could help enhance the sustainability of feedstock production while ensuring the continued growth of renewable fuels. A partnership between CARB and the USDA could also provide greater alignment on practices that reduce carbon emissions, improve soil health, and support rural economies, creating a more cohesive national strategy toward cleaner fuel pathways.

Recommendation

Clean Fuels and CABA recommend that the limits on credit generation in section 95482(i) and the sustainability provisions in section 95488.9(g) be modified to only apply to non-North American agricultural lipid feedstocks, with the credit limit to be applied as follows: 50% in 2028 and 25% in 2031. Alternatively, we recommend the Board direct the Executive Officer (using their enforcement discretion authority) to apply the credit limit only to non-North American agricultural lipid feedstocks.

- Our recommendation aligns with the fact that feedstocks grown in North America for compliance with the federal Renewable Fuel Standard and/or the Canadian Clean Fuel Regulations already meet rigorous sustainability requirements, including strong anti-deforestation and other measures to prohibit or limit cultivated land expansion and conversion.
- CARB staff also introduced at the April 10th workshop the concept that a higher land use change values (than those contained in Table 6) can be assigned to a high-risk feedstock. By corollary, we can infer that some feedstocks should be considered low-risk, such as North American agricultural lipid feedstocks, because of the aforementioned requirements. Simply put, neither the credit limitation nor the sustainability provisions should apply to low-risk feedstocks because they have already implemented, attested to, and been verified as meeting the exact conditions that address the sustainability concerns raised by CARB.

- The 50% credit limitation by 2028 is recommended as an intermediate step for pathway holders using non-North American agricultural lipid feedstocks to adjust their contracts. The 25% credit limitation by 2031 is recommended to coincide with the requirement to obtain a full certification for the sustainability provisions, which is a significant decision point in the regulation.

Summary

Clean Fuels and CABA strongly supports the proposed CI targets and Automatic Acceleration Mechanism and encourages the Board to adopt the proposed changes to the LCFS, including our recommendations stated above, at its November 8th Board meeting.

Clean Fuels and CABA thank CARB staff for their continued efforts to strengthen the LCFS and provide the vision for the program to meet California's carbon neutrality goals. Thank you for your consideration of these comments. We look forward to continuing to collaborate with CARB staff.

Sincerely,



Cory-Ann Wind
Director of State Regulatory Affairs
Clean Fuels Alliance America



Carlos Gutierrez
Executive Director
California Advanced Biofuels Alliance