



July 7, 2023

Governor Gavin Newsom
California State Capitol
Sacramento, CA 95814

Liane Randolph, Chair
Members of the Board
California Air Resources Board
1001 "I" Street
Sacramento, CA 95814

Submitted electronically via

<https://ww2.arb.ca.gov/public-comments/joint-california-quebec-public-workshop-potential-amendments-cap-and-trade>

**Re: June 14 Joint California-Québec Workshop:
Potential Amendments to the Cap-and-Trade Regulation**

Esteemed Governor Newsom, Chair Randolph and Members of the Board:

Biofuelwatch¹ is an international organization that works to increase public understanding and civic engagement on the land-use implications of climate policy. We have a particular focus on the environmental harms and social inequities of large-scale industrial bioenergy projects, and we work extensively on addressing the negative ecological and social outcomes of policy and actions that are justified as being beneficial to the global climate, yet carry with them risks and threats to public health and natural resources. This brief letter is provided by our organization to the California Air Resources Board (CARB) as comment on the June 14 Joint California-Québec Workshop: Potential Amendments to the Cap-and-Trade Regulation (Workshop).

No Exemptions for Biogenic Feedstock Emissions from Compliance Obligation

Our organization has tremendous concerns regarding the obfuscation and cherry picking of climate science that permeates the justifications by CARB leadership for not only carrying forth with the markets-based compliance mechanism, but to do so in an exceptionally permissive and

¹ <http://www.biofuelwatch.org.uk/>

polluter friendly manner. As we communicated during the development of the 2022 Scoping Plan Update, the speculative technologies and markets-based mechanisms approach that CARB is relying on to address greenhouse gas emissions simply fails to match the urgency of the moment. For instance, despite the growing body of evidence that exposes offsets to be **UNJUST** and **UNFIXABLE**², CARB staff continue to double down in both a policy and political sense in support of offset mechanisms, repeatedly taking the side of extractive industry.

As well, during the Workshop there was another clear example of the ongoing pattern of CARB staff bullying and denigrating critical voices from the environmental justice community when they speak out regarding the problems with cap-and-trade. This behavior from CARB staff is inexcusable. Our organization is not confident that executive CARB leadership has the cultural and technical competencies required to lead the agency to fulfill its mandate to serve the public interest at this critical moment.

On a different tact, but also of concern to our organization, and as exemplified on slide 29 of the presentation that staff shared at the Workshop³, is the proposal to provide ‘exemptions of biogenic CO2 emissions’ to the covered entities subject to the already lax requirements of the markets-based compliance mechanism.

Beyond the fact that the characterization of ‘biogenic’ feedstocks as being ‘carbon neutral’ is predicated on erroneous assumptions, false equivalencies and a dubious scientific construct regarding how photosynthesis can engineer feedstocks that when processed and burned have no climate impact, we are very concerned about the proposition to give refiners a free pass on the compliance obligation associated with the carbon dioxide emissions from processing high deforestation risk commodities such as soy as feedstock for manufacturing liquid biofuels.

There are a number of other reasons why this proposed exemption of the emissions from ‘biogenic’ feedstocks from the compliance obligation of a covered entity should not be included in any amendments to the cap-and-trade program.

One of those reasons is that many ‘biogenic’ feedstocks are already granted a carbon neutral value in the Life Cycle Analysis calculus included in the Low Carbon Fuel Standard (LCFS). It would be an egregious case of double counting if these feedstocks were granted yet another scientifically unfounded characterization as carbon neutral that resulted in an emissions exemption in the markets-based compliance mechanism. To add insult to injury, CARB is currently considering amendments to the LCFS, but during the LCFS amendment process the agency is refusing to address and revise the currently outdated methodologies CARB relies on for assessing climate impacts from Indirect Land Use Change (ILUC). ILUC is increasingly understood to be intrinsic to the significant climate impact of the utilization of emissions

² Joseph Romm, *Are carbon offsets unscalable, unjust, and unfixable—and a threat to the Paris Climate Agreement?* A University of Pennsylvania Center for Science, Sustainability, and the Media White Paper, June 2023. <https://bpb-us-w2.wpmucdn.com/web.sas.upenn.edu/dist/0/896/files/2023/06/OffsetPaper7.0-6-27-23-FINAL2.pdf>

³ https://ww2.arb.ca.gov/sites/default/files/2023-06/nc-CapTradeWorkshop_June142023_0.pdf

intensive lipid feedstocks. To ignore the evidence regarding the climate impacts of high deforestation risk commodities like soy, including the failure to take into full consideration the cross-commodity market elasticity that makes ILUC such a serious concern, while granting an emissions exemption in cap-and-trade for the processing of these feedstocks, would be an abdication of the responsibility that CARB has to serving the public interest.

Another concern is that evidence now shows that the term 'biogenic' has been manipulated by regulators to include feedstocks that are petroleum based. A joint Guardian and Pro Publica report from February 2023⁴ exposed the severe public health risks arising from the processing of certain 'waste' feedstocks that have been characterized by the federal government as 'biogenic' even though they are of petrochemical origin. The promotion of making feedstocks from plastic waste that would then be used in the manufacture of so-called "renewable diesel" is central to the narrative of the company Fulcrum Bioenergy⁵, which publicly is claiming to have provided a 'syncrude' feedstock to the Marathon-Neste joint venture at the Martinez biofuel refinery⁶, one of the higher profile and controversial refinery conversion projects in the state. Such 'waste-to-energy' projects have long been discredited as a climate solution; unfortunately, by offering an emissions exemption to a broad category of biogenic feedstocks that could very easily include petroleum-based materials, CARB threatens to further greenwash a known climate false solution, as well as turn a blind eye to the public health threats embodied in the utilization of such feedstocks.⁷

Conclusion

Our organization has numerous concerns about the management of the cap-and-trade program by CARB leadership; for years now, CARB has had a head in the sand approach to the contemporary climate science that exposes emissions trading systems as being fully inadequate for responding to the climate crisis. The proposed exemption of biogenic feedstocks from the cap-and-trade compliance obligation would simply make a failing mechanism fail at an even larger scale. We strongly oppose the proposed exemption from the cap-and-trade compliance obligation of carbon dioxide emissions from the processing of 'biogenic' feedstocks at stationary sources such as refineries.

Sincerely,



Gary Graham Hughes
Americas Program Coordinator
Biofuelwatch
garyhughes.bfw@gmail.com
+1-707-223-5434

⁴ <https://www.propublica.org/article/chevron-pascagoula-pollution-future-cancer-risk>

⁵ <https://www.fulcrum-bioenergy.com/>

⁶ <https://www.fulcrum-bioenergy.com/strategic-partners>

⁷ <https://www.propublica.org/article/chevron-epa-plastic-biofuel-cancer-risk>