Request for an Early Effective Date

Pursuant To Government Code Section 11343.4(b)(3)

Proposed Amendments to the Low Carbon Fuel Standard

The California Air Resources Board (CARB or Board) requests, pursuant to Government Code section 11343.4, subdivision (b)(3), that the Office of Administrative Law (OAL) prescribe an “earlier effective date” for the Proposed Amendments to the Low Carbon Fuel Standard (LCFS) Regulation that was adopted on November 8, 2024. CARB believes the following demonstrates “good cause” for OAL to prescribe an earlier effective date – i.e., July 1, 2025.

<u>Demonstration of Good Cause</u>

In this rulemaking, the Board considered and adopted amendments to the LCFS Regulations primarily to strengthen the LCFS carbon intensity (CI) reduction standards from 2025 to 2045 to align with California’s carbon neutrality and greenhouse gas (GHG) emission reductions goals.[1] These amendments are designed to send stable and effective market signals in the short and longer term to spur the development, production, and use of low carbon fuels, in order to facilitate achievement of additional long-run GHG emissions reductions. These market signals are critical at this time given the uncertainty of federal funds and tax incentives for clean energy and infrastructure.

The proposed amendments would increase both the pre- and post-2030 stringency of the LCFS CI benchmarks. The proposed amendments would require a 30% reduction in fuel CI by 2030 and a 90% reduction in fuel CI by 2045 from a 2010 baseline. The amendments strengthen the 2025 (current calendar year) standards for California transportation fuels that would otherwise be in effect under the current version of the LCFS. These CI standards determine the number of credits or deficits attributable to all California transportation fuel subject to the LCFS. Thus, regulated parties make business decisions, investments, and negotiate contracts with the specific standard in effect in mind.

The LCFS sets annual CI standards, and regulated entities participate in a credit trading market based on the value and volume of credits and deficits generated by market participants. The amendments change the CI standards for 2025 and all subsequent years. The volume of credits and deficits generated is determined by the annual standard. The value of credits is determined by the trading behavior of the market participants themselves, which is derivative of the market pressure imposed by the annual standard.

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[1] Health and Safety Code section 38562.2 establishes state policy to:

> “(1) Achieve net zero greenhouse gas emissions as soon as possible, but no later than 2045, and to achieve and maintain net negative greenhouse gas emissions thereafter [; and]
> (2) Ensure that by 2045, statewide anthropogenic greenhouse gas emissions are reduced to at least 85 percent below the statewide greenhouse gas emissions limit.”

Because the amendments strengthen the applicable standards for 2025, if an applicable default effective date of October 1, 2025 applied, rather than July 1, 2025, the extent to which two different annual standards could apply for different parts of 2025 would likely be exacerbated. That scenario could disrupt the LCFS market, as regulated entities would likely face confusion in business interactions regarding the applicable LCFS value of the fuels sold into the California market.

Any additional delay of the effective date of the amendments contrary to market expectations could introduce volatility to not only the LCFS credit market, but also the statewide transportation fuel market, potentially disrupting investment and deployment of low-carbon fuels in California. There could also be substantial implications for programs dependent upon revenues from the LCFS market and for compliance plans for all affected entities. OAL has previously recognized the importance of market certainty in providing an early effective date for analogous amendments to CARB's LCFS regulation, and should do so again here.

Accordingly, the requested July 1, 2025, effective date will provide regulated entities certainty and avoid any potential confusion or dispute regarding which benchmark is in effect after that date.

For the reasons set forth above, CARB believes there is good cause for OAL to prescribe an earlier effective date and hereby requests that OAL approve an earlier effective date of July 1, 2025, pursuant to Government Code section 11343.4, subdivision (b)(3).

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Gabriel Monroe

Gabriel Monroe, Senior Attorney