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THE INTERNATIONAL COUNCIL ON CLEAN TRANSPORTATION1500 K STREET NWSUITE 650WASHINGTON DC 20005

September 20th, 2024

RE: International Council on Clean Transportation comments on LCFS Application No. B0597

These comments are submitted by the International Council on Clean Transportation (ICCT). The ICCT is an independent nonprofit organization founded to provide unbiased research and technical analysis to environmental regulators. Our mission is to improve the environmental performance and energy efficiency of road, marine, and air transportation, in order to benefit public health and mitigate climate change. We promote best practices and comprehensive solutions to increase vehicle efficiency, increase the sustainability of alternative fuels, reduce pollution from the in-use fleet, and curtail emissions of local air pollutants and greenhouse gases (GHG) from international goods movement. The ICCT welcomes the opportunity to provide comments on Imperial Western Products' Low-Carbon Fuel Standard (LCFS) pathway application. We commend the agency for its dedication to assessing its progress towards its climate goals and its willingness to evaluate policy options to meet its targets. The comments below offer a number of technical observations and recommendations for ARB to consider as it reviews the contributions of the LCFS to its broader climate goals.

We would be glad to clarify or elaborate on any points made in the below comments. If there are any questions, ARB staff can feel free to contact Nik Pavlenko (<u>n.pavlenko@theicct.org</u>) and Dr. Stephanie Searle (<u>stephanie@theicct.org</u>)

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These comments pertain to Imperial Western Products' application (B0597) for two biodiesel pathways produced using waste oil derived from inedible consumer-packaged foods. While the LCFS should be commended for its use of life-cycle accounting in order to accurately assess the GHG implications of alternative fuels and to incentivize alternative fuels proportionally to their GHG savings, particular care should be taken when developing LCA emissions estimates based on counterfactual behavioral assumptions. Approving this pathway as modeled could set a precedent for future fuels pathway applications in the LCFS and is at odds with ARB's broader climate goals beyond the scope of transportation and the LCFS program.

Though the underlying calculations for the avoided methane emissions from the vegetable oils contained in discarded food accurately convey the avoided methane emissions from the anaerobic decomposition of that material, the application does not sufficiently justify that diverting the packaged food waste is new behavior, attributable to the LCFS, or is additional to legal requirements. Therefore, the application overstates the GHG reductions attributable to this pathway and double-counts separate policies on organic waste with the LCFS.

Specifically, the LCFS regulation states (§ 95488.9. (f) (2) (A)):

• "The organic material that is used as a feedstock would otherwise have been disposed of by landfilling, and the diversion is additional to any legal requirement for the diversion of organics from landfill disposal... The baseline quantity of avoided methane reflected in the CI calculation is additional to any legal requirement for the avoidance or capture and destruction of biomethane".

While CARB has previously argued that its treatment of avoided methane from manure digesters for RNG applications in the LCFS is suitable in the absence of a binding regulation on farms, and CARB has specific statutory guidance to provide LCFS credits to manure-derived biomethane pathways, this does not exist for food waste. In fact, laws and requirements are already in place to mandate organic waste diversion from landfills. Specifically, Senate Bill 1383 requires a 75% reduction in the level of the statewide disposal of organic waste from the 2014 level by 2025 and these regulations were put in place in 2022.¹ The regulations specify that transfer/processing facilities and operations that conduct processing activities must reach a 75% landfilling diversion rate by 2025. Coachella, where IWD's material recovery facility is located, has also developed a corrective action plan to implement the regulations.² Separately, Assembly Bill 1826 also mandates that businesses that fall above a certain waste generation threshold divert their organic waste from landfills.³

Because large portions of the application are redacted, we cannot draw firm conclusions on exactly where the organic waste sourced for this pathway is drawn from. However, given the large quantities of feedstock implied by the application (sufficient to justify industrial scale oil extraction and repurposing for biofuel), it is likely that the waste aggregators and processors would have been legally obligated to divert that food waste from landfills in the absence of the California LCFS.

¹ <u>https://www2.calrecycle.ca.gov/Docs/Web/118371</u>

² https://www2.calrecycle.ca.gov/Docs/Web/124554

³

As we have previously commented, there are already issues regarding additionality and deliverability with LCFS's manure-derived biomethane pathways. Approving this pathway would exacerbate those concerns.⁴ Extending this lack of scrutiny to food waste risks establishing a precedent for producers to claim that feedstocks were previously landfilled in order to increase those feedstocks' value within the program. Validating these claims could introduce substantial regulatory complexity. Promoting landfill diversion is already done through separate waste management and landfilling policies, and including the impact of those outside policies as a credit source in the LCFS risks diluting the policy's signal for transportation fuels. Though we support the use of diverted waste to produce low-carbon fuels, we recommend that CARB assume a counterfactual assumption that the waste oils were composted rather than landfilled in order to accurately align the LCFS's GHG accounting with existing waste management policies in California.

⁴ <u>https://theicct.org/publication/evaluating-the-policy-value-of-dairy-biomethane-derived-hydrogen-in-californias-lcfs-sept24/</u>