


To: Assembly Bill 32 Environmental Justice Advisory Committee
From: Steven S. Cliff, Ph.D., Executive Officer 
Date: March 13, 2024
Subject: CARB's Responses to EJAC's LCFS Resolution and Recommendations

Thank you for ongoing engagement and advisement as we amend the Low Carbon Fuel Standard (LCFS). Open dialogue and active engagement were two top priorities that the Chair outlined when she created an ongoing AB 32 Environmental Justice Advisory Committee (EJAC), and I am pleased to see them in action through this process.

We received EJAC's recommendations on the 45-day LCFS proposal, which were submitted to the docket. We have transmitted these recommendations to our board members, as well as the Chair. I have attached staff's responses to the EJAC resolution.

Our staff from Industrial Strategies Division (ISD) will present on the 45-day LCFS proposal at the March 15th public EJAC meeting and will be prepared to answer any questions that may arise as it relates to the response to the EJAC resolution or the EJAC's recommendations on LCFS from the Scoping Plan.

As I shared at the January public EJAC meeting, I am committed to ensuring the success of the EJAC's mission to advise the Board on environmental justice considerations, prioritizing racial equity, related to the implementation of AB 32 through an open dialogue.

Attachment

cc: Chanell Fletcher, Deputy Executive Officer - Equity, Communities, and Environmental Justice
Rajinder Sahota, Deputy Executive Officer - Climate Change & Research
Matthew Botill, Chief, Industrial Strategies Division
Radhika Majhail, Branch Chief, Environmental Justice and Equity Branch

EJAC Low Carbon Fuel Standard (LCFS) Resolution Preliminary Responses March 2024

EJAC LCFS <i>Recommendation</i> (from September 2023 Resolution to the Board)	CARB’s Preliminary Response¹
<p>1. Conduct and incorporate a full life cycle assessment of all air pollution and greenhouse gas (GHG) emissions for all pathways, and their implications for environmental justice communities.</p>	<p>The process to promulgate regulations requires CARB to do a CEQA analysis to conservatively assess potential impacts of actions that may happen in response to the implementation of the LCFS regulation. Consistent with previous LCFS rulemakings, CARB released the preliminary CEQA analysis and supporting analysis with the initial 45-day regulatory proposal. The analysis released with the 45-day regulatory proposal included an estimate of the greenhouse and criteria pollutant emissions from the production, distribution, and use of low-carbon fuels in the future.</p> <p>Under the LCFS regulation, parties can develop and submit their own Pathways for fuel production and deployment. Each project that is implemented must be in conformance with all applicable local, state, and federal requirements, that includes environmental laws or requirements to conduct a CEQA analysis.</p> <p>The lifecycle scope for LCFS projects is tied to fuel production and deployment and it relies on tools and models widely accepted for this purpose which are referenced on CARB’s website. This specific ask to require LCA for air pollution for every pathway and their implications for environmental justice communities goes beyond the scope of the legal requirements already in place for assessing impacts during the development of a regulation and the scope of legal requirements for implementing fuel production projects.</p>
<p>2. Conduct a full accounting of GHG and air pollution emissions</p>	<p>The lifecycle analysis for dairy projects includes a scope of how manure produced as a waste from dairy and livestock operations is collected, processed, and deployed as a fuel. This scope acknowledges that either manure methane will be released into the atmosphere as a fugitive</p>

¹ Final responses will be developed and included in the Final Statement of Reasons which follows Board adoptions of regulations.

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<p>associated with pathways relying on the production of fuel from livestock and dairy manure.</p>	<p>methane, or alternatively, collected and used to displace fossil fuels. Since greenhouse gases are global in nature a lifecycle assessment is appropriate for greenhouse gas emissions analysis for each project. Air emissions are local in nature and projects must demonstrate compliance with all air pollution permits that apply.</p>
<p>3. Eliminate avoided methane credits effective January 1, 2024.</p>	<p>Capturing methane from dairies is one of the primary measures for achieving the state’s 2045 greenhouse gas reduction targets, 2030 greenhouse gas reduction targets, and SB 1383 2030 methane reduction targets.</p> <p>Ending avoided methane crediting in 2025 could stop the development of new anaerobic digester projects and also cause operating digestors to shut down if the operational expense is greater than the value of the gas and other incentives received by the dairies. Without anaerobic digesters, California would not be able to meet its SB 1383 methane reduction goals.</p> <p>CARB did include modeling for eliminating avoided methane credits as soon as possible in the Comprehensive EJ Scenario. Staff plans to walk through that scenario at the March 15th public EJAC meeting.</p>
<p>4. Eliminate credit generation for pathways relying on the production of fuel from livestock and dairy manure for emissions reductions that otherwise would have occurred or</p>	<p>CARB did include modeling for eliminating avoided methane credits as soon as possible in the Comprehensive EJ Scenario. Staff plans to walk through that scenario at the March 15th public EJAC meeting. SB 1383 directs CARB to first use incentives to help reduce methane emissions from this sector. As CARB detailed in its response² to the 2021 petition for rulemaking, the LCFS has never contained a general additionality requirement, rather the LCFS is designed to increased production of low-carbon fuels.</p>

² <https://ww2.arb.ca.gov/sites/default/files/2022-04/LCFS%20Reconsideration%20Petition%20Response.pdf>

EJAC LCFS <i>Recommendation</i> (from September 2023 Resolution to the Board)	CARB’s Preliminary Response¹
<p>were legally or contractually required to occur.</p>	
<p>5. Cap the use of lipid biofuels at 2020 levels pending an updated risk assessment to determine phase out timelines for high-risk, crop-based feedstocks.</p>	<p>The 45-day regulatory proposal includes sustainability criteria, which coupled with the existing LCFS regulatory requirements in include land-use change impacts on certain fuel and feedstock combinations, will further help address concerns that high-risk feedstocks may increase the risk of deforestation. Staff will hold a future public workshop to engage with stakeholders on this topic. It should be noted that in the Comprehensive EJ scenario, in the absence of drop in fuels to displace the remaining fossil diesel demand, GHG and air quality emissions were higher than the staff proposed scenario.</p> <p>Staff plans to walk through Comprehensive EJ scenario at the March 15th public EJAC meeting.</p>
<p>6. Prohibit enhanced oil recovery as an eligible sequestration method.</p>	<p>SB 905 prohibits enhanced oil recovery activities as part of a geological carbon sequestration project. Staff will have a separate process to workshop the requirements in SB 905 as part of future SB 905 rulemaking efforts.</p>
<p>7. Do not issue LCFS credits for carbon removal projects such as Direct Air Capture.</p>	<p>Direct Air Capture (DAC) is a key component of CARB’s plan to reduce greenhouse gas emissions and meet carbon neutrality by 2045. Eliminating credits for DAC projects would eliminate one of the key incentives to deploy this technology and jeopardizes the feasibility of achieving California’s long-term decarbonization targets and the 2045 carbon intensity target proposed under this project.</p>
<p>8. Consider the inclusion of intrastate jet fuel and marine fuels as a deficit generator and</p>	<p>The 45-day regulatory proposal includes intrastate jet fuel as a deficit generator.</p>

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provide analysis of this option as part of the LCFS	