



February 16, 2024

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

RE: Public Comment on LCFS Rulemaking – Don't accelerate the LCFS Program

Madame Chair and Board Members,

Consumer Watchdog urges the California Air Resources Board to reject the proposed acceleration of carbon intensity standards under the Low Carbon Fuel Standard (LCFS) Program.

Gasoline prices in California are too high and the expansion of the LCFS will add more than 50 cents per gallon to the cost of California gasoline by 2026, according to CARB's own estimates (CARB SRIA page 57 here: https://ww2.arb.ca.gov/sites/default/files/2023-09/lcfs_sria_2023_0.pdf)

California gasoline prices have consistently been \$1.20 more than American gas prices, despite the fact that state environmental fees and extra taxes add only 70 cents more per gallon. The burden on working families in California is too much. Currently, the LCFS adds only 10 cents per gallon to a gallon of gas as part of the added fees. Quintupling that amount is unfair to drivers and will have dubious environmental benefits as the proposed acceleration of carbon intensity requirements is structured.

Ratcheting down Carbon Intensity reduction targets for transportation fuels is a noble goal. If the board adopts the staff recommendation, however, it will cause irreparable pain to consumers at the pump while facilitating continued, unacceptable damage to the environment.

The Low Carbon Fuel Standard (LCFS) program is meant to cut greenhouse gas emissions. It does this by mandating reductions in the average carbon intensity of transportation fuels sold in California. The program requires companies that sell gasoline and diesel fuels to purchase LCFS credits that CARB awards to cleaner fuel alternatives, including credits generated from biofuels and from non-combustion alternatives like electric vehicles.

By prioritizing biofuels over electrification, CARB has created a monster that is sucking up unreasonable subsidies at the expense of drivers, creating incentives for refiners to decrease

needed refining capacity, and aiding deforestation in the Amazon by propping up soybean farming.

CARB policies have brought a flood of renewable diesel into California's market by assigning overly generous Carbon Intensity scores on the premise that renewable diesel is far less carbon polluting than it is in reality.

One of the main beneficiaries has been big oil refiners who have converted two of their refineries to cash in on the renewable diesel gold rush CARB has created. The refiners have found a way to decrease gasoline inventories, so they can jack up gas prices from a tighter market. A history of the California oil refining market, where five oil refiners make 98% of the gasoline, shows that oil refiners have looked for ways to create a tighter market so they can charge more for gasoline.¹ CARB has given Marathon and Phillips 66 the incentive to take 13% of the state's gasoline refining capacity offline to produce renewable diesel.

The manufacture of renewable diesel, which earns more LCFS credits than any other project type, is particularly dangerous as it involves the use of highly [flammable methanol](#) to break up vegetable oils and animal fats. Worker overexposure can cause neurological damage. Two refineries, Marathon and Phillips 66, are on the verge of completing their conversions to make

¹ Memos from West Coast oil refiners from the 1990s, released by United States Senator Ron Wyden (D-Ore.), show that reducing refining capacity to maximize profits is a deliberate business strategy. An internal Chevron memo, for example, stated: "A senior energy analyst at the recent API [American Petroleum Institute] convention warned that if the U.S. petroleum industry doesn't reduce its refining capacity, it will never see any substantial increase in refinery margins." It then discussed how major refiners were closing down refineries. Not surprisingly, subsequent oil company profit reports show each dramatic gasoline price spike over the last decade has been mirrored by a corresponding corporate profit spike. An internal memo from Mobil discussed how the oil giant worked to "keep down" a smaller refiner, Powerine, from opening up its refinery as way to increase its profits by calling for increased environmental protections on the refiner. Then the memo talks about a Plan B of buying up the refiner's production should it open. Buying up other competitors' output and preventing new production are hardly the hallmarks of a competitive market. Similarly, a Texaco memo warned that "supply significantly exceeds demand year-round. This results in very poor refinery margins and very poor refinery financial results. Significant events need to occur to assist in reducing supplies and/or increasing the demand for gasoline." In the subsequent years, California's refineries consolidated and contracted. In 2005, our consumer group teamed up with Sen. Barbara Boxer (D-Calif.) and Attorney General Bill Lockyer in getting Shell Oil to reverse its decision to bulldoze its Bakersfield refinery, and to instead sell it. Internal documents showed that the refinery was making among the highest profits of all Shell refineries. That indicated the company wanted to make supplies even tighter, driving prices artificially higher. Nonetheless, Shell continued to lean on Flying J, the new owner, who eventually shuttered the refinery. For example, leaders of the United Steel Workers local at the refinery charged Shell with "trying to shut down our plant" by shutting off pipelines and demanding payment 30 days in advance. The union memo to members said Shell had refused an offer of eight days' advance payment. The erasure of the Big West refinery took 2% of the state's gasoline and 6% of diesel offline. Oil refiners in California have systematically shut down refiners and refineries as a way of maximizing their profits. See the following memos from Chevron, Texaco, and Mobil:
<https://consumerwatchdog.org/wp-content/uploads/2023/12/Chevron-5103.pdf>
<https://consumerwatchdog.org/wp-content/uploads/2023/12/Texaco-5104.pdf>
<https://consumerwatchdog.org/wp-content/uploads/2023/12/Mobil-5105.pdf>

renewable diesel full tilt in the Bay Area at Marathon's Martinez refinery and Phillips' Rodeo refinery. Marathon's Martinez refinery has already experienced [two large fires](#). The manufacturing process is energy-intensive and renewable diesel combustion still produces both planet-cooking carbon dioxide and nitrogen oxide, a critical component of photochemical smog that is damaging to public health.

Biodiesel has a limited use for certain trucks but cannot be used for most vehicles that consumers drive. Based on credit generation data from the [CARB LCFS Dashboard](#) and average annual LCFS credit prices from [UC Davis](#), about \$17 billion worth of LCFS credits were issued from 2013 through 2022, with about 80% going to biofuels, and only about 20% going to EVs and electrification that produce zero emissions. The program's funding for electrification has played an important role in helping local governments and other public actors relying on the sale of credits afford projects that move them away from fossil fuels. But these benefits are being overshadowed by the harms being done by the program's primary beneficiaries, the biofuels industry.

The preponderance of projects the LCFS supports still produce planet-damaging and toxic emissions rather than moving far more quickly to a zero-emissions transportation structure via electrification. Both [Marathon](#) and [Phillips 66](#) are investing in U.S. soybean processing plants as their renewable diesel requires large amounts of soybean oil that is rapidly becoming a [preferred feedstock](#). Almost all the renewable diesel produced in America is consumed in California because of the LCFS program. [Most of it is from out of state or imported](#) from South American countries that are home to tropical rainforest that extends across several of them.

Phillips 66 plans to produce renewable diesel using soy bean oil from Argentina, the world's largest exporter of soybean oil, according to the [Union of Concerned Scientists](#). "This one huge facility could potentially consume about half Argentina's soybean exports and 20 percent of global exports," according to UCS senior scientist Jeffrey Martin. Demand for soy and palm oil is displacing communities and leading to the slashing and burning of South American rainforests, according to [Rainforest Rescue](#). "This deforestation is accelerating climate change by releasing billions of tons of CO₂ into the atmosphere — by some estimates, deforestation has a greater impact on the climate than the world's entire fleet of motor vehicles," the organization reports. "Moreover, arable land is scarce, and its use for fuel crops is contributing to rising food prices and world hunger."

The LCFS has been the nation's primary driver of [factory farm biogas development](#), according to Food & Water Watch. Big Oil and Big Ag behemoths such as Chevron, BP, Shell, Smithfield, Perdue, and Tyson have invested heavily in a national methane production network from livestock waste that generates revenue from so-called "clean energy" renewable biogas under credit trading schemes such as the LCFS.

Such systems are in fact giant sources of pollution featuring vast manure lagoons that increase methane emissions, shoot pollutants such as ammonia and hydrogen sulfide into the air, and sicken communities.

CARB staff appears to have discounted such criticism in preparing its recommendation. When a scientist and former CARB fuel chief criticized CARB's relationships to gas lobbyists, staff was barred from speaking with him by CARB's lead climate executive, Rajinder Sahota, according to an article in [Capital & Main](#).

As [UCS senior scientist Jeremy Martin](#), writes, "In [my feedback](#) over the last 2 years, I argued CARB should cap support for bio-based diesel made from vegetable oil and phase out credits for avoided methane pollution to wind down what has become, in effect, a poorly run offset program. Bio-based diesel and manure biomethane generate a lot more credits than an accurate assessment of their climate benefits would support and are causing additional problems to boot. Unfortunately, the official proposal ignores the oversupply of low value credits and focuses almost exclusively on increasing demand by accelerating the pace of the program. This won't work—and will make the LCFS needlessly costly for California drivers, while postponing the needed reforms that would restore the stability of the LCFS."

The technical complexity of biofuels policy makes it hard for consumers to understand what they are being asked to pay for, and industry benefits from the opacity. Financially disinterested experts have articulated substantial problems with the program's performance, which staff has ignored.

A vote for the staff proposal is a vote to ask California drivers to pay an additional 50 cents per gallon of gasoline to support biofuels that contribute to air pollution, increase food prices, and increase deforestation in the Amazon. CARB must ensure that the transition away from fossil fuels results in a zero-carbon emissions economy not an economic bonanza for biofuels polluters.

Sincerely,



Jamie Court
President, Consumer Watchdog



Liza Tucker
Consumer Advocate, Consumer Watchdog