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Clean Energy

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Mr. James Duffy
Chief, Transportations Fuels Branch
California Air Resources Board
1001 I Street
Sacramento, CA 95814

RE: Clean Energy's Comments in Response to July 31, 2019 LCFS Workshop

Dear Mr. Duffy,

Clean Energy would like to thank the California Air Resources Board (CARB) staff for the opportunity to submit comments in response to the second CARB Staff workshop regarding cost containment under the Low Carbon Fuel Standard (LCFS) held on July 31, 2019. Clean Energy remains concerned that the proposed cost containment mechanisms could result in negative unintended consequences that will increase volatility and decrease liquidity in the LCFS marketplace. Furthermore, as discussed in our April 22nd comment letter, Clean Energy is concerned that the proposed cost containment mechanisms represent significant departures from the founding principle that the LCFS is to be a performance-based fuel neutral program achieving actual greenhouse gas (GHG) emission reductions from California-based transportation fuel.

Borrowed Credits

As we discussed in our previous comment letter, the LCFS market has remained consistent and stable over the past 12 months suggesting that Staff's current cost containment proposals are premature at this time, especially a proposed concept of borrowing credits from a future period. Allowing obligated party to use borrowed credits for compliance has zero impact on reducing GHG and criteria pollutant emissions today and may undervalue the impact of reducing climate change emissions in the near term. Delaying emission reductions in the short term compounds the harmful effects of climate change in the future due to a time-dependent effect of climate emissions, especially short-lived climate pollutants. Immediate reductions in GHG emissions are necessary not only for mitigating the effects of climate change, but also for the improvement of air quality for California residents, especially those in disadvantaged communities.

Allowing the use of borrowed credits may also undermine the functionality of the LCFS market which has served as a technology neutral incentive program for reducing GHG emissions from the transportation sector through alternative fuel production and consumption in California. Deviating from this foundation to drive advancement in a favored vehicle technology can potentially have lasting effects in the LCFS market that cannot be reversed. Focusing all attention to one favored technology, and delaying near term emission reductions up to 11 years, casts doubt on future incentives for alternative fuel production and delivery to the California transportation fuel market.

Alternative fuels, namely biofuels, have accounted for over 90% of total credit generation in the LCFS program to date. The success of the LCFS program, and achievement of short-term air quality improvement goals, will depend on the continued growth of biofuels and their respective vehicle technologies. Therefore, if Staff intends to implement a cost containment provision it should seek to incentivize broader alternative fuel production and demand, such as a price floor and adequate vehicle incentives, rather than focusing all efforts on one favored technology in the future.

Limiting Invalidation Liability & Hard Price Cap

Clean Energy understands and appreciates Staff's approach to limit buyer liability of credit invalidation in the CCM but unfortunately, we believe this proposal will negatively impact liquidity in the LCFS marketplace. Although Staff is proposing to eliminate buyer liability to invalidation risk in the CCM, this same invalidation risk will remain in the over the counter (OTC) market where over 99% of LCFS credits are bought and sold. Invalidation risk is understandably a big concern for obligated parties purchasing credits for compliance and it is safe to say that all obligated parties would rather purchase credits without any invalidation risk. This creates an incentive for obligated parties to hold off on purchasing credits in the OTC market and wait for credits to be pledged to the CCM where they will have zero risk of invalidation. Market liquidity is pivotal to alternative fuel producers who need consistent and reliable cashflow to recoup capital investment in their projects.

The above issue could be compounded further with the concept of a hard (inflation adjusted) $200 per credit price cap. This $200 per credit cap now effectively becomes a premium price for zero invalidation risk in the CCM. This means that the price in the OTC market will trade at a (possibly significant) discount to account for perceived invalidation risk. This bearish market signal will stall investment in alternative fuel production facilities which again have accounted for over 90% of total credits generated under the LCFS program since inception. Given that ARB has already implemented a third-party verification program in the latest adoption of the LCFS, is there even a need to limit buyer invalidation liability in the CCM? Once the verification program is up and running, all credits generated and transacted in the marketplace should be verified and carry no invalidation risk precluding the need for this particular cost containment provision.

Clean Energy Cost Containment Proposal

Clean Energy agrees with the need to control costs under the LCFS program but there is an even greater need to promote increased investment in low carbon fuels and advanced vehicle strategies to realize immediate GHG and criteria pollutant emission reductions. Ensuring there is an adequate supply of low carbon fuels (and therefore credits) is going to be the most effective way to not only keep costs low but to also achieve California's aggressive 2030 reduction target.

Maintaining a stable LCFS marketplace is critical for producers to unlock project financing which continues to be the main hurdle for developers.

For all of the reasons above, we respectfully ask Staff again to consider instituting a price floor capable of providing a strong market signal and added assurances necessary to finance low carbon fuel production projects. We also respectfully ask Staff to consider expanding the scope of the "Clean Fuel Reward" program to include other vehicle technologies in a point-of-purchase rebate program, such as near zero low-NOx NGV trucks. If Staff intends to move forward with the borrowed credits proposal at least expanding the rebate program to include both zero and near zero technologies will increase demand for low carbon fuel and allow the state to recognize immediate reductions in GHG and criteria pollutant emissions in the short term rather than having to wait a full 11-year cycle.

Conclusion

Clean Energy urges Staff to fully consider the unintended consequences of their cost containment proposals. We understand the need for containment measures, but there is an even greater need for a stable LCFS marketplace and adequate incentives for all alternative fuel and vehicle technologies. Achieving the 2030 reduction target is going to require a significant influx of low carbon fuel supply and therefore significant investment in the LCFS market. Promoting investment in all low carbon and limiting market volatility should be a priority when developing any cost containment mechanism. We are happy to work with Staff and discuss our cost containment proposal in more detail.

Sincerely,

Todd Campbell
Vice President, Public Policy and Regulatory Affairs
Clean Energy Fuels Corporation