



Senator Maria Cantwell, Chair  
Senator Roger Wicker, Ranking Member  
Senate Committee on Commerce, Science and Transportation

Senator Joe Manchin, Chair  
Senator John Barrasso, Ranking Member  
Senate Committee on Energy and Natural Resources

Senator Tom Carper, Chair  
Senator Shelly Moore-Capito, Ranking Member  
Senate Committee on Environment and Public Works

August 26, 2021

Dear Senators:

The California Air Resources Board (CARB) and the California Energy Commission (CEC) request your consideration of an issue that is becoming an impediment to California's goals of protecting public health, especially in our most heavily burdened communities, and reducing dependence on petroleum fuels. CARB's Low Carbon Fuel Standard<sup>1</sup> incentivizes the production and use of drop-in fuels derived from renewable and sustainable feedstocks with the goal of reducing our greenhouse gas emissions in the transportation sector. Renewable diesel is important from the perspective of achieving our federal and state air quality mandates, contributing to state and national efforts to reduce greenhouse gases, and supporting traditional petroleum companies in transitioning to cleaner fuels. Under the flexibility of the Low Carbon Fuel Standard, producers of renewable diesel can be located within California or out of state.

Federal regulations require labeling of fuel dispensers to inform end-users on the types of biofuels blended with gasoline and diesel fuel.<sup>2</sup> Nearly all of these regulations require labels to specify the range of biofuel that could be contained in the gasoline or diesel fuel.<sup>3</sup>

---

<sup>1</sup> [Low Carbon Fuel Standard | California Air Resources Board](#)

<sup>2</sup> Language in the 2007 Energy Independence and Security Act (EISA) directed FTC to promulgate new labeling requirements for renewable diesel, among other things. These labeling requirements were modified in 2008 to include renewable diesel as part of FTC's Automotive Fuel Ratings, Certification, and Posting amendments.

<sup>3</sup> Most gasoline sold in the United States contains ethanol at a concentration of 10 percent by volume. However, the labels on gasoline dispensers will state "May Contain Up To 10% Ethanol", rather than requiring a label specifying the exact concentration of ethanol. Similarly, locations that sell diesel fuel containing varying concentrations of biodiesel that are greater than 5 percent but less than 20 percent are also not required to use a label specifying the exact concentration of biodiesel. Rather, language describing a possible range of biodiesel is used instead that states "Contains Biomass-based Diesel or Biodiesel in Quantities Between 5 Percent and 20 Percent".

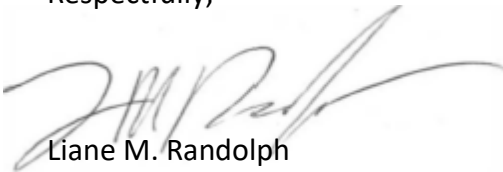
Currently, Federal Trade Commission (FTC) labeling regulations require fuel dispensers with diesel fuel blended with biomass-based diesel fuel (renewable diesel) in concentrations greater than 20 percent by volume to be labeled with the **exact** concentration of renewable diesel at the time of the fueling event.<sup>4</sup> It is infeasible for many operators of fueling stations (gas stations, truck stops, card-locks, etc.) to determine the exact concentration of renewable diesel that will be dispensed and to create a new pump dispenser label for each new fuel delivery. Since federal pre-emption prevents California or any other state from passing labeling requirements that are counter to FTC regulations, we are reaching out to initiate a dialogue on potential options for how to address this issue. Further, given the fungible nature of renewable diesel with petroleum diesel and the fact that it has no bearing on performance the current requirements serve as an artificial barrier to using higher levels of renewable diesel. As such, we are losing an opportunity to deliver needed public health and climate benefits associated with using higher levels of renewable diesel.

In California, use of renewable diesel has grown by 528% between 2013 and 2019. In 2019, it displaced 618 million gallons of conventional diesel. Renewable diesel reduces particulate matter, a known cancer-causing pollutant, by about 30 percent compared to conventional diesel. A significant portion of California's population, often communities of color, lives near or adjacent to freeways and has borne disproportionate air quality impacts from the combustion of conventional diesel fuel. The displacement and eventual phase out of conventional diesel combustion is critical to address this environmental justice issue. In addition, Marathon and Phillips 66 are pursuing permits to modify their existing refineries in California to produce a combined total of 1.5 billion gallons of renewable diesel per year once fully operational by 2024. Both companies plan to begin production of renewable diesel during the first phase of these projects with the goal to supply nearly 400 million gallons by 2022. The challenges posed by the current labeling constraint will hinder the ability for these companies to supply this fuel and other companies from transitioning to production and delivery of sustainable fuels as we transition to a green economy.

We look forward to engaging on this important public health, environmental protection, and economic transition issue. We are available to assist in anyway we can to ensure the current label efforts do not preclude the increased use of renewable diesel and, by extension, forego critical near-term community protection and climate benefits.

Please contact David Garcia at [david.garcia@arb.ca.gov](mailto:david.garcia@arb.ca.gov) or (916) 207-8355 with any questions regarding this information.

Respectfully,



Liane M. Randolph  
Chair  
California Air Resources Board



David Hochschild  
Chair  
California Energy Commission

---

<sup>4</sup> Code of Federal Regulations, Title 16, Chapter I, Subchapter C, Part 306, Automotive Fuel Ratings, Certifications, and Posting