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U.S. Environmental Protection Agency
EPA Docket Center
OAR Docket
Mail Code 28221T
1200 Pennsylvania Avenue NW
Washington, DC 20460

Docket ID No: EPA-HQ-OAR-2022-0985

Re: Comments of Clean Fuels Alliance America on the Greenhouse Gas Emissions Standards for Heavy-Duty Vehicles-Phase 3¹

Dear Administrator Regan,

Clean Fuels is the U.S. trade association representing the entire biodiesel, renewable diesel, and sustainable aviation fuel supply chain, including producers, feedstock suppliers and fuel distributors. Made from an increasingly diverse mix of resources such as recycled cooking oil, soybean oil, and animal fats, the clean fuels industry is a proven, integral part of America's clean energy future. We serve as the clean fuel industry's primary organization for technical, environmental, and quality assurance programs and are the strongest voice for its advocacy, communications, and market development.

The biodiesel and renewable diesel industry is on a path to sustainably double the market to 6 billion gallons annually by 2030, eliminating at least 35 million metric tons of CO₂ equivalent greenhouse gas emissions annually with our members leading the U.S. companies investing in new biodiesel, renewable diesel and SAF capacity. These fuels are among the cleanest and lowest-carbon fuels available today to help reduce greenhouse gas (GHG) emissions now and are available to meet President Biden's near- and long-term climate goals, particularly in the hard to decarbonize sectors.² To date, the utilization of low carbon liquid fuels like biodiesel and renewable diesel reduces greenhouse gas emissions by more than 70% on average, directly and immediately reducing GHG emissions from the vehicles that use our fuels.

Low carbon liquid fuels are the lowest cost option toward decarbonization that can be used in every diesel fueled application and every engine technology. It cannot be overlooked that the heavy-duty sector will continue to rely on the internal combustion engines when you consider the longer full useful

¹ U.S. Environmental Protection Agency. Greenhouse Gas Emissions Standards for Heavy-Duty Vehicles-Phase 3, EPA-HQ-OAR-2022-0985, 88 FR 25926 (April 27, 2023), available at <https://www.federalregister.gov/d/2023-07955>

² Executive Office of the President. Executive Order 14008: Tackling the Climate Crisis at Home and Abroad, 86 FR 7619 (February 1, 2021), available at <https://www.federalregister.gov/d/2021-02177>

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life requirements of existing diesel engines and the decades it will take to pursue across the board electrification and other decarbonization strategies. As a result, EPA cannot discount the immediate benefits biodiesel and renewable diesel have and will continue to bring as we decarbonize the heavy-duty sector.

Our fuels reduce more than just greenhouse gas emissions. Biodiesel and renewable diesel also reduce criteria pollutants from existing diesel engines, reducing health and environmental impacts in major trucking corridors, warehouse distribution centers and other diesel hot spots close to major population sectors. This means that using these fuels today will also lower health care impacts and costs for all populations living in and near these areas including minority, low-income, and indigenous populations.

We ask that EPA adjust the performance-based standards to reflect a more appropriate and feasible mix of technologies available in the time-frame proposed to meet the revised standards recognizing that EPA will still achieve both carbon reductions and environmental justice benefits using biodiesel and renewable diesel in the heavy-duty sector.

II. Proposed CO₂ Emission Standards

We appreciate EPA's acknowledgement of the role the internal combustion engine will continue to play in the heavy-duty market. The heavy-duty trucking sector alone will be reliant on liquids fuels until at least 2050 with the assumed average lifetime of 15 years.

The Ultra-Low Emissions Diesel Engines (ULEDEs) produced under the "Control of Air Pollution from New Motor Vehicles: Heavy-Duty Engine and Vehicle Standards" are substantially cleaner than New Technology Diesel Engines (NTDE) in the market today and will approach near-zero regulated emissions of PM, NO_x, unburned hydrocarbons, and carbon monoxide.³ Low-carbon liquid fuels will address the emissions of PM, NO_x, unburned hydrocarbons, and carbon monoxide in existing engines. Using renewable fuels in existing internal combustion engines will remain an important option for decarbonizing the transportation sector. In addition, these fuels continue to make improvements in emissions, are readily available nationwide, have known predictable performance, and other known operating characteristics such as higher cetane rating and improved lubricity, which help prolong engine life. Biodiesel burns cleaner, reduces harmful emissions, and helps eliminate injector and fuel system deposits, which can extend maintenance intervals.

Meeting clean air demands does not require switching to a zero-emissions vehicle. Biodiesel and renewable diesel are drop-in alternatives, achieving valuable carbon reductions today at a relatively low cost.⁴ These fuels offer owners, users, and fleet operators of heavy-duty vehicles affordable, low-carbon solutions to immediately improve the sustainability of their operations. These cleaner fuels are available now and can be used in every diesel fueled application and every engine technology. Nearly all medium- and heavy-duty original equipment manufacturers (OEMs) support using biodiesel blends of 20% or more in the vehicles they produce, and the vast majority of OEMs support the use of biodiesel blends up

³ U.S. Environmental Protection Agency. Control of Air Pollution from New Motor Vehicles: Heavy-Duty Engine and Vehicle Standards, EPA-HQ-OAR-2019-0055, 88 FR 4296 (January 24, 2022), available at <https://www.federalregister.gov/d/2022-27957>

⁴ Source: Frank, J. et al. Quantifying and comparing the cumulative greenhouse gas emissions and financial viability of heavy-duty transportation pathways for the Northeastern, United States. Fuel, 323, 124243, Sep. 2022. <https://doi.org/10.1016/j.fuel.2022.124243>. See Table 4.

to 20%. For those that do not, warranties cannot be voided or impacted in any way using biodiesel, due to existing federal law.⁵

When compared to other decarbonization strategies such as zero emissions and specifically electrification approaches, which require both new vehicles and infrastructure to realize the benefits, biodiesel and renewable diesel remain the lowest cost option.

E. Technology, Charging Infrastructure, and Operating Costs

As EPA looks to the Inflation Reduction Act (IRA) as a policy to support charging infrastructure in conjunction with the Proposed Rule, it is important for EPA to consider the timeframe of such investments along with the timeframe of growing an electric heavy-duty fleet. Congress demonstrated when passing IRA the need to continue to support biofuels infrastructure growth to supply low carbon biofuels remains a priority. The U.S. Department of Agriculture's Higher Blends Infrastructure Incentive program (HBIIIP) increases the sales and use of higher blends of biodiesel by expanding the infrastructure for renewable fuels derived from U.S. agricultural products. The program by design encourages a more comprehensive approach to market higher blends by sharing the costs related to building out biofuel-related infrastructure. The expansion of biofuel infrastructure, as facilitated by HBIIIP, broadens the availability of renewable fuels like B20 and higher blends while reducing carbon emissions and harmful tailpipe pollution today. Under HBIIIP, the grants support fueling stations, convenience stores, hypermarket fueling stations, and fleet and fuel distribution facilities, including terminal operations and home heating oil distribution centers throughout the country. Federal matching grants have helped and continue to help the industry build or retrofit terminals, storage, and rail capacity to enable broader consumer access to these clean fuels and in turn clean air.

This infrastructure complements existing fueling infrastructure throughout the country and does not require investment in new vehicles and an infrastructure overhaul to realize GHG benefits. EPA must reevaluate this rule to better reflect that the adoption of ZEV in the heavy-duty market is dependent on the timing and availability of infrastructure.

VII. Benefits of the Proposed Program

A. Social Cost of GHGs

When looking at greenhouse gas (GHG) reductions today, biodiesel is a solution that reduces carbon dioxide now. Specifically, when compared to electric vehicles (EVs), utilizing biomass-based diesel now will allow the United States to meet our carbon reduction goals earlier than if we were to rely on EVs alone. It has been shown that the immediate investment in a mature, currently commercialized biomass-based diesel fuel yields higher annual greenhouse gas emissions reductions than waiting for a technology that is still considered immature, such as heavy-duty EVs.⁶ The benefits of using and increasing the use of biomass-based diesel now will not only provide immediate greenhouse gas reductions, but also will have a positive impact on health in disadvantaged communities.

When considering options to help reduce greenhouse gas emissions from vehicles and equipment, there are two essential elements to consider: the amount of the reduction and when it happens. This is because carbon emissions are persistent and accumulate. The resulting increased levels of GHGs in the atmosphere contribute to global warming now and for decades to come. A reduction in GHG emissions

⁵ Magnuson-Moss Warranty Act, P.L. 93-637

⁶ Frank, Jenny & Brown, Tristan & Haverly, Martin & Slade, Dave & Malmsheimer, Robert. (2020). Quantifying the comparative value of carbon abatement scenarios over different investment timing scenarios.

now can avoid decades of associated heating, thus having significantly more value than carbon reductions made in the future. The time value of carbon is key, and the next decade is critical.⁷ The importance of reducing carbon today cannot be understated as the Intergovernmental Panel on Climate Change (IPCC) clearly reaffirmed in their Sixth Assessment Report: Carbon reductions today are more important than carbon reductions in the future.⁸

The immediate reductions achieved by biodiesel and renewable diesel are crucial to reach our near- and long-term carbon reduction goals. Importantly, biofuels are already reducing GHG emissions. The biodiesel and renewable diesel industry is on a path to sustainably double the market size to 6 billion gallons annually by 2030 if not earlier and eliminating over 35 million metric tons of CO₂ equivalent greenhouse gas emissions annually. Removing this important mechanism will be detrimental to meeting our nation's clear air and energy goals.

XII. Statutory Authority and Legal Provisions

Whether EPA can effectively require manufacturers of heavy-duty vehicles to manufacture dramatically increased proportions of electric vehicles is undoubtedly a “major question.”⁹ The scope of EPA's proposal represents a fundamental regulatory shift that has massive economic consequences. When such a major question is at issue, an agency “must point to clear congressional authorization for the authority it claims.”¹⁰

Section 202 of the Clean Air Act does not provide the necessary clear authorization for EPA's proposal. Section 202 gives EPA authority to set “standards” that relate to particular air pollutants, not the authority to pick an entire set of vehicles over another.¹¹ But the latter is what EPA proposes—by setting a very low GHG standard while treating EVs as emitting zero grams per mile of GHGs (despite considerable upstream emissions from power plants) and treating all internal combustion engines the same (despite considerable GHG benefits of biofuels like biodiesel and renewable diesel), EPA's proposal ensures that manufacturers will need to convert large portions of their fleets to EVs. That is doing more than setting a standard; it is effectively mandating a shift to an entirely different engine. And that is beyond EPA's Section 202 authority.

Conversely, in the past, users and producers have repeatedly requested that EPA create or expand vehicle incentives for higher biodiesel blends. The goal would be to create a fleet of capable vehicles so that the maximum amount of low carbon fuels can be used. We believe that dual fuel B20 biodiesel blend vehicles can currently benefit from fuel economy credits under NHTSA rules, though thus far no one has taken advantage of them. Indeed, B85 also qualifies for the 0.15 divisor for fuel economy calculations. To utilize these structures B20 and B85 certification fuels may need to be defined as well as F Factors that quantify projected use of the fuels. We would welcome the opportunity to speak further about potential opportunities to create or expand vehicle incentives for higher biodiesel blends.

⁷ National Biodiesel Board. Biodiesel.org. (2021). Cutting Carbon: Comparing Biomass-Based Diesel & Electrification for Commercial Fleet Use.

⁸ Intergovernmental Panel on Climate Change. (2021). Climate Change 2021: The Physical Science Basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change.

⁹ See *W. Virginia v. Env't Prot. Agency*, 142 S. Ct. 2587, 2595 (2022)

¹⁰ *Id.*

¹¹ 42 U.S.C. § 7521(a)

Lastly, EPA's proposal is inconsistent with another statement by Congress—its express desire for increased blending of biofuels in the 2007 EISA. That statute, which established the Renewable Fuel Standard (RFS) program, requires refiners and importers of petroleum fuels to blend increasing percentages of biofuels into their products.¹² Congress also established an explicit minimum amount that must be blended each year for one category of fuel under the program: biomass-based diesel.¹³ So, Congress has not just declined to provide EPA with authority for a shift entirely away from liquid fuels but explicitly dictated to the contrary. And it has been particularly clear that biomass-based diesel must remain part of our country's solution to decarbonizing the transportation sector.

Conclusion

The immediate and compounding benefits that biodiesel and renewable diesel provide cannot be underscored enough. We ask that EPA adjust the performance-based standards to reflect a more appropriate and feasible mix of technologies available in the time frame proposed to meet the revised standards as we work together to decarbonize the heavy-duty sector today and, in the years to come.

Sincerely,

A handwritten signature in black ink that reads "Kurt A. Kovarik". The signature is written in a cursive, slightly slanted style.

Kurt Kovarik
Vice President, Federal Affairs
Clean Fuels Alliance America

¹² See 42 U.S.C. § 7545(o)

¹³ *Id.* § 7545(o)(2)(B)(v)