The following memo examines how much attention Congress and the news media has given to a national Low Carbon Fuel Standard.

**Hearings**

On May 21, 2009 the single congressional hearing was held on the adoption on a national low carbon fuel standard within The Committee on House Agriculture. The official purpose was to hear proposals on how to implement an LCFS standard. Representatives from three pro-ethanol firms gave scripted testimony to members of the committee. All three witnesses made similar arguments praising the recent passage of renewable energy bills, such as The Energy Independence and Security Act of 2007 and the 2008 Farm Bill, but also warn against the new trend of considering significant indirect carbon emissions resulting from indirect land use change. The pro-ethanol representatives used phrases like “devastation” and “downfall of the industry” to describe the effect of passing LCFS legislation with indirect land use changes provisions. This hearing presented testimony in favor of maintaining certain aspects of the status quo (like a disregard of the carbon impact indirect land use change) but wanted to further the Nation’s commitment to ethanol by establishing a bill specifically for a LCFS. Committee members attending the hearing did not put forth any questions to the group.  

**Legislation**

Over recent years there have been several attempts to enact a national LCFS in some form from both chambers. The 110th congress had multiple efforts to pass or amend legislation. The “Clean Fuels and Vehicles Act” was introduced by Senator Diane Feinstein (D-CA). Feinstein modeled her legislation on California’s own state wide LCFS policy, which requires a reduction of 10% in carbon intensity of all California fuels by 2020. S.1073 required a 10% reduction in vehicle emissions by 2030 and involves fuel suppliers to increase the amount of alternate fuels (like ethanol) to the nation’s overall fuel supply. The bill was read twice on the floor and referred to the Committee on Environment and Public Works where it died.

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Two months later, Senator Feinstein’s colleague Senator Barbara Boxer (D-CA) introduced similar LCFS legislation in the form of a Clean Air Act amendment. The “Advanced Clean Fuels Act of 2007” would have revised current CAA provisions to require the aggregate quantity of fuel sold to contain a certain volume of renewable that would result in the specified total minimum volume for 2011-2025, and require that emissions from gasohol does not result in average per-gallon vehicle emissions in excess of 2007 emission levels. Like Feinstein’s bill, S. 1297 was referred to the Committee on Environment and Public Works where it too died.

Four days after Senator Boxer introduced her bill, then-Senator Obama (D-IL) introduced S. 1324: the "National Low Carbon Fuel Standard Act of 2007". This bill would have also amended the CAA, and would have identified low carbon fuels, establish a low-carbon fuels certificate and marketing process, and required the reduction of GHG emissions through the use of low-carbon fuels (like ethanol) and improvement in traditional fuel (like gasohol). Senator Obama’s bill also died in the Committee on Environment and Public Works.

In the House, Representative Inslee (D-WA) and 22 cosponsors (all Democrats save one) introduced H.R. 2215 a day after then Senator Obama introduced his legislation. H.R. 2215 would require the EPA to set a GHG emissions reduction baseline, where emissions would gradually be reduced from 3% to 21% between the years of 2015 and 2049. This bill also included requirements for aircraft fuel. H.R. 2215 was referred to the Committee on Energy and Commerce, where it died.

The current session of Congress has three current legislation proposals pending. In the House, Rep. Inslee essentially reintroduced his bill from the 110th Congress in March 2009 (H.R. 1787). The Low Carbon Fuel Standard act of 2009 is very similar to his previous attempt, as it also amends the CAA and requires reductions over a period of time. However, this bill gives the EPA administrator authority to waive emission reduction requirements of the Act to prevent “economic or environmental harm”, something that was absent in H.R. 2215. This bill is currently sitting in the House Committee on Energy and Commerce and doesn’t appear to pass this session either.

In the Senate, Senator Wyden (D-OR) introduced “America’s Low-Carbon Fuel Standard Act of 2009” in May 2009. S. 1095 would also amend the CAA by replacing the renewable fuel program with a LCFS program. What sets S. 1095 apart from previous legislation are cap and trade previsions for excess

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production of low-carbon monitored by the FTC. This bill is currently sitting in the Committee on Environment and Public Works.\(^{12}\)

**News Media**

The idea of a national LCFS has garnered some attention from various media sources, primarily the *Wall Street Journal*. An August 2009 article in the *Wall Street Journal* highlights the prospect of a LCFS and in particular one group that is fiercely against such a bill.\(^{13}\) The Consumer Energy Alliance (comprising of several oil companies and the U.S. Chamber of Commerce) launched an ad campaign in late 2009 to denigrate the idea of a LCFS within the public’s consciousness.\(^{14}\) Their Web site, [http://secureourfuels.org](http://secureourfuels.org), includes phrases like “Lots of Confusion, Few Savings” and “LCFS is a massive transfer of wealth from Main Street to Wall Street”.\(^{15}\) The *Wall Street Journal* article subtly addresses this, but refrains from offering an opinion on either argument.

The *Wall Street Journal* has published a number of articles on attempts to pass global climate change legislation which include passing references to a national LCFS. An April 2009 article on the massive Waxman-Markey Climate Change bill mentions how the bill includes everything on an environmentalist’s “green wish-list”, including a LCFS (which was ultimately removed from the bill’s final revision).\(^{16}\) A May 2007 article examined then Senator Obama’s LCFS bill and its possible effects on the car industry.\(^{17}\) A June 2007 article on the House avoiding sensitive energy issues mentions how the Energy and Commerce Committees continue to defer discussion on a national LCFS, which is evident by H.R. 2215’s demise mentioned previously.\(^{18}\)

A search of other national newspapers, such as the *New York Times* and *The Los Angeles Times* turned up nothing in relation to a national LCFS. There were a few articles in both *The Los Angeles Times* and

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\(^{14}\) Ibid.


The *Sacramento Bee* about the California LCFS law.\(^{19}\) There were also a surprising number of articles from Canadian sources on a national LCFS and its effect on Canadian tar sands (if enacted).\(^ {20}\)

**Strategy**

The first step is to find a Republican Senator or Representative who would be willing to co-sponsor legislation with a Democratic colleague. All past legislation has been introduced or co-sponsored by Democrats (except for one Republican supporting Rep. Inslee’s H.R. 2215 last year). Taking a bi-partisan approach should help push any proposed bill farther into Committee than in previous attempts. The EPA should seek out a Congressman from a state that leads in ethanol production, like Iowa or Nebraska, and a Democratic Congressman who has attempted to push legislation through before, like Rep. Inslee (assuming his current legislation does not go through).

Although reaching a consensus is ideal, the EPA should strive for achieving a majority of votes. However, in order to reach either a bi-partisan consensus or Congressional majority some possible provisions within a hypothetical national LCFS must be omitted for the time being. Namely, the indirect land use impact. Pro-Ethanol firms, like Renewable Fuels Association (whose president testified at the Hearing), are immensely powerful at bogging down the process of getting any comprehensive climate change bill dealing with GHG passed. It’s possible that the Indirect Land Use Calculation tables that the EPA (and California) is currently using will show an *increase* in GHG emissions with increased use of ethanol/gasohol mixtures. Despite the position of Indirect Land Use calculation tables within the EPA, in order to get any LCFS legislation passed this has to be omitted, for now.

The bill should be introduced when gas prices are relatively high. One of the main arguments against LCFS is the increased costs associated with creating hybrid fuels.\(^ {21}\) When gas prices are high, the public often blames domestic oil companies or OPEC. Introducing legislation using buzz words like “home-grown”, “renewable”, and “American made” would resonate with the public and (hopefully) their congressmen would follow suit with their votes. This might get the attention of some news organizations that could put the idea of LCFS in the minds of citizens who are typically not viewed as environmentally conscious.

One way of getting both Congress’s and the news media’s attention is to emphasize President Obama’s support of a LCFS, as indicated by the legislation he put forth when he was a Senator. If it’s possible to get the LCFS back on his agenda and talking about it, it’s almost automatic that Congress and the news media will talk about it in some way. However, as evident with the economy and healthcare, this can be good and bad for the LCFS push. It also might not be a good idea with Congress as partisan as it has been of late. And if the midterm elections prove to be a repeat of 1994, leaving President Obama out of the discussion might be wise.

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\(^{19}\) For an example, see Lau, Edie. “Fuels to go ‘low-carb’.” *The Sacramento Bee CA*, January 22 2007 (accessed April 5 2010).

\(^{20}\) For an example, see Mitch, Potter. "Oil sector braces for punch from U.S." *Toronto Star (Canada)*, December 07 2009 (accessed April 5 2010).

It’s also possible that a lot of media attention would not be good for getting a LCFS bill passed. With the media focused on the role of the federal government in healthcare and the economy, it’s possible bringing attention to a LCFS could turn into a “the government wants to control all parts of my life” debate, which is a powerful motivator for some Congressmen to vote no.