Low Carbon Fuel Standard Rulemaking

April 18, 2014
**Proposed Concepts**

- Recordkeeping and Reporting Provisions
- Credit Provisions
- Enforcement Provisions
Recordkeeping and Reporting Provisions

• Lessons Learned from LCFS Reports Review Initiative
  – Chain of Custody Reporting
  – Product Transfer Document Requirements
  – Standardized Fuel Transaction Form

• Other Concepts
  – Registration in the LCFS Reporting Tool
  – Opt-out Process and Requirements
  – Enhanced Records Retention Period
  – Definitions
Chain of Custody Reporting

• Regulated parties to report *all* LCFS fuel transaction types including: production, import, sale/purchase with and without obligation, and exports

• Entities that take on obligation but do not retain obligation, i.e. sell the fuel downstream with obligation, are *required to report* in the LCFS Reporting Tool (LRT-CBTS)

• Bookouts involving title transfers are to be reported

*Rationale*

• Ensures a system of checks and balances
• Increases traceability of LCFS fuel obligations
Illustrative Example:

Producer/Importer → Purchaser #1 → Purchaser #2 → Blender—Finished Fuel

LCFS Obligation
Product Transfer Documents (PTD) Definition

• The regulation currently requires regulated parties to provide PTDs to document fuel title transfers

• Staff proposes to include a definition of PTD in the regulation and clarify the list of parameters to be provided on PTDs

Rationale
Ensures downstream entities receive all information pertinent to LCFS reporting from the upstream entity
PTDs associated with the transfer of ownership of a LCFS fuel to include:

- Date of title transfer; transferor and transferee name, address and contact information
- A statement identifying whether the LCFS Obligation is retained by transferor or passed to the transferee
- Amount of fuel transferred
- Fuel Pathway Code, Carbon Intensity
- Biofuel* Production Facility Information: Company name, facility name, EPA Company ID/ Facility ID

* Ethanol, Biomass-based diesel and Biogas
Tracking Biofuel Facilities for Commingled Fuels

• CIs and volumes from each production facility added to an inventory must be recorded separately

• Sales of the CIs/volumes of fuel from a biofuel facility must be consistent with (not exceed) the CIs/volumes added to the commingled inventory

• This accounting is to be maintained on a continuous accumulative basis over multiple reporting periods, as appropriate
Standardized Fuel Transaction Form (FTF)

• Issue: Inconsistent reporting of fuel sale/purchase transactions data in the LRT-CBTS

• Proposed Concept
  – Both regulated parties would complete an FTF
  – The FTF would not replace the accompanying documentation (i.e., PTDs)
  – Exchanged between business partners monthly (or quarterly)

Rationale
Minimizes inconsistent reporting
LCFS Reporting Tool Registration

Enhance Registration Requirements in LRT-CBTS

- Confirmation of Regulated Party or Opt-In Status
- Company Authorization of Account Administrators

**Rationale**

- Ensures that only LCFS regulated entities register in the LRT-CBTS system
- Enhances security of regulated party accounts in the LRT-CBTS
Opt-out Requirements

Current Regulation: A paper-based opt-out process for all regulated parties

Proposed Concept:

• Online Opt-out through LRT-CBTS
• Confirmation that account has been balanced
Enhanced Record Retention Period

• Current Regulation: 3-year record retention period

• Cap and Trade Regulation: 10-year record retention time frame

• Proposed Concept: 5-year record retention

**Rationale**

Provide greater time to evaluate potential reporting discrepancies
Definitions

• Revise Definition of Regulated Party
  – An entity that holds LCFS obligation at a given point of time
  – Limit obligation from passing below the rack

• Define a Finished Product
  – How to handle diesel fuel sold above the rack
  – Other fuels that do not require a blending component

• Clarify Production for Use in CA and Import Transaction Types
Credit Provisions

• Claiming Credits Retroactively
• Online Credit Transfers
• Definitions
Proposed Concept: Allow limited credit retroactivity to a maximum of two full quarters

**Rationale**

Limit credit retroactivity to avoid LCFS credit market disruptions
Instances where retroactivity will **not** apply:

- iLUC change
- Pre-Opt in
- New regulatory provisions
Transfer of LCFS Credits

• Mandatory online process

• Buyer to confirm completion of trade within fifteen business days of transfer
Definitions

• Broker
  − Third-party user registered in the LRT-CBTS specifically to facilitate the transfer of credits between regulated parties
  − Regulated parties must pre-authorize a Broker to transfer credits on their behalf

• Credit Facilitator
  − A regulated party representative with a “Credit Facilitator” user account role in the LRT-CBTS.
  − Regulated parties assign this role to those staff that initiates and completes LCFS credit transfers on behalf of their organization
Guiding Principle: Noncompliance always cost more than compliance
Enforcement Provisions

• Health & Safety Code Part 5 §43027

• Considerations for Penalty Assessment

• Reporting Violations

• Each Deficit as a Separate Violation

• Executive Officer Authority
H&S Code Part 5, section 43027

- Up to $35,000 per day for strict liability;
- Up to $50,000 per day negligence; and
- Up to $250,000 per day for willful and intentional violations
Penalty Considerations (Health & Safety Code 43031)

1. Extent of harm

2. Nature and persistence of the violation, including the magnitude of the excess emissions

3. Compliance history

4. Any preventive efforts

5. Effort to comply

6. Cooperation of the defendant

7. Financial burden
Quarterly or Annual Reporting Violations

• Late Reporting;

• Inaccurate reporting; or

• Regulated Party Entities not Registering in the LRT-CBTS

Possible Proposed Language

“Each day or portion thereof that any report required by this article remains unsubmitted, or contains information that is incomplete or inaccurate is a single, separate violation.”
Annual Compliance Violation

Proposed Concept:

Set unit price of CO$_2$E deficit

- Assign a $ value for every deficit
- Example: $1,000 for every deficit
Add explicit language in regulatory text stating ARB Executive Officer has the authority to:

- Suspend an account
- Revoke credits
- Hold credits
- Limit or prohibit transfers of credits
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Feedback Due By: May 9, 2014  
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