

California Environmental Protection Agency



Air Resources Board

***Low Carbon Fuel Standard
Rulemaking***

April 18, 2014

Agenda

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

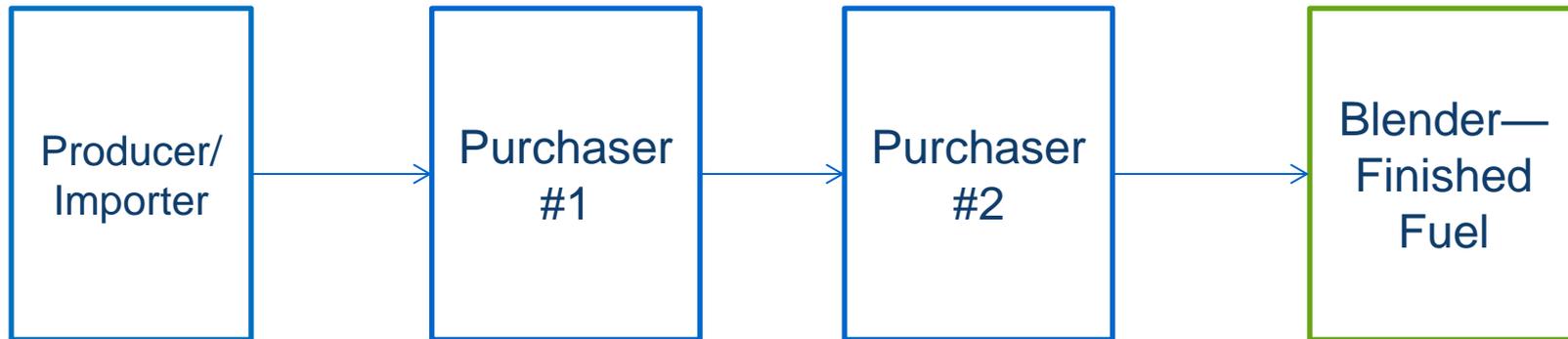
- Regulated parties to report all LCFS fuel transaction types including: production, import, sale/purchase with and without obligation, and exports
- Entities that take on obligation but do not retain obligation, i.e. sell the fuel downstream with obligation, are required to report in the LCFS Reporting 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

Chain of Custody Reporting (cont.)

Illustrative Example:



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

Product Transfer Documents (PTD) cont.

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

Product Transfer Documents (PTDs) cont.

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**

Agenda

Credit Provisions

- Claiming Credits Retroactively
- Online Credit Transfers
- Definitions

Claiming Credits Retroactively

Proposed Concept: Allow limited credit retroactivity to a maximum of two full quarters

Rationale

Limit credit retroactivity to avoid LCFS credit market disruptions

Claiming Credits Retroactively (cont.)

Instances where retroactivity will not apply:

- iLUC change
- Pre-Opt in
- New regulatory provisions

Online Credit Transfers

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

LCFS Enforcement Provisions

*Guiding Principle: Noncompliance
always cost more than compliance*

Agenda

Enforcement Provisions

- Health & Safety Code Part 5 §43027
- Considerations for Penalty Assessment
- Reporting Violations
- Each Deficit as a Separate Violation
- Executive Officer Authority

LCFS Enforcement Provisions

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

LCFS Enforcement Provisions Continued

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

LCFS Enforcement Provisions Continued

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.”

LCFS Enforcement Provisions Continued

Annual Compliance Violation

Proposed Concept:

Set unit price of CO₂E deficit

- Assign a \$ value for every deficit
- Example: \$1,000 for every deficit

LCFS Enforcement Provisions Continued

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

Contact Information

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Feedback Due By: May 9, 2014
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