



BP America, Inc

**Ralph J. Moran**  
**1201 K Street, Suite 1990**  
**Sacramento, CA 95814**

DATE: October 3, 2016

**Via Email**

Sam Wade  
California Air Resources Board  
1001 I Street, Sacramento, CA

**Re: BP Comments on ARB July 29, 2106 LCFS Workshop Presentation**

Dear Sam:

BP appreciates the opportunity to provide feedback on the California Air Resources Board (ARB) proposed Low Carbon Fuel Standard (LCFS) pre- regulatory concepts presented at the July 29, 2016 ARB Workshop.

**Point of Obligation**

In the July 29<sup>th</sup> LCFS workshop, staff opined that in order to harmonize with the MRR, they are considering moving the point of obligation for the LCFS to the rack. BP strongly opposes moving the LCFS point of obligation as significant system and process development would be required in order to adjust our compliance capabilities. No compelling cost/benefit analysis has been presented by ARB to justify the complexity and cost that moving the point of obligation would introduce into the program.

BP believes that moving the point of obligation to the rack would bring a large quantity of smaller counterparts into the LCFS credit market. This change results in the unintended consequence of increased credit constraints when transacting with these smaller counterparties. Lack of counterparty confidence in transactions may potentially reduce the liquidity in the market.

Until the time when sufficient details become available to allow stakeholders to develop an informed position on the level and extent of the change under ARB's consideration, this proposed amendment to the regulation should be vacated. As it currently stands, BP feels that any potential benefit of a point of obligation move to effect harmonization with MRR is not worth the tradeoff.

BP America, Inc  
Comments to California Air Resources Board on LCFS

**Credit Transactions and Reporting**

In the proposed revisions to the LCFS regulations, ARB has shortened the time provided to submit a Credit Transfer Form (“CTF”) by a seller from 10 business days to 3 calendar days<sup>1</sup>. In addition, the time provided for the buyer to accept a CTF has also been shortened from 10 calendar days to 3 calendar days. This shortened time period poses a problem for most parties in the market, including BP, because the process for confirming a transaction executed between the parties is much longer than 6 calendar days. The current industry standard is that a seller gets at least 5 business days to send a confirmation to a buyer. The buyer then has 5 business days to review the confirmation and ensure it properly documents the terms agreed. If ARB changes the time provided from 10 business/calendar days to 3 days, sellers and buyers will have to initiate and accept the transfer of credits before a transaction is confirmed, as currently submitting the CTF and initiating transfer are one and the same.

For most companies, different teams handle the confirmation process and the transfer of credits in the LRT system. One team will review the confirmation to ensure the terms adhere to the original agreement. Once this process is completed, the transfer would be initiated by a different team (or if a future delivery date was agreed to in the deal, the transfer would be initiated on or prior to the delivery date).

In a hypothetical deal that follows the proposed new requirements, the parties are exposed to the risk that a problem could arise if the transfer is completed before the seller has forwarded a contract confirmation. Should a dispute arise over the commercial/legal terms contained in the confirmation after the transfer, the parties will have already transferred and accepted the credits in the LRT system. Exhibit 1 shows a diagram of the industry practice for confirmations compared to requirement in the proposed amendments.

During the July 29<sup>th</sup> webcast, ARB said that the reason they were shortening the time provided was so that their weekly transaction reports were more accurate. We think ARB can still accomplish this goal without causing parties to transfer credits before a transaction is papered. ARB could accomplish their goal by separating the reporting of the transaction from the transfer of the credits in LRT-CBTS. This would also eliminate the need to change the LRT system in order to provide sellers with a way of inputting a future delivery date, which ARB has acknowledged isn’t currently possible in the LRT system. For the foregoing reasons, BP proposes that ARB consider obtaining reports of transactions separate from the actual transfer of the credits in the LRT system.

As always, please feel free to contact me if you wish to discuss these comments in more detail.

Sincerely,

Ralph J. Moran  
BP America, Inc

---

<sup>1</sup> The LCFS Regulations define “Day” as a calendar day. BP notes that in the slide deck provided at the July 29<sup>th</sup> webcast, ARB mentions that it will be adding a definition of “Deadline” and the purpose of the definition will be to clarify that if a deadline falls on a holiday or weekend, the following business day will be considered the effective deadline for that occurrence.

BP America, Inc  
 Comments to California Air Resources Board on LCFS

**Exhibit 1**  
**Example of industry standard confirmation process for confirming LCFS transactions**

Day 0 (Trade Date)	1st Business Day	2nd BD	3rd BD	4th BD	5th BD	6th BD	7th BD	8th BD	9th BD	10th BD
Agreement is reached over the phone to Buy/Sell LCFS credits	Seller sends an email Confirm memorializing the commercial terms of the deal. If a master agreement does not exist between the parties, the Confirm will include language dealing with force majeure, representation and warranties, event of default, responsibilities of the parties for failure to accept/initiate or invalidation of credits etc.					Buyer either accepts, rejects, or if no response is given, is deemed to have accepted the details in the Confirm from the Seller.				
Agreement to transfer is reached.	According to the proposed changes in the regulations, credits must be initiated within 3 calendar days. <b>This may or may not be 3 business days. For example, if your Trade date falls on a Friday, you would have to initiate the credits by Monday, which is only 1 BD.</b>			Buyer must accept the credits within 3 calendar days. Upon acceptance, the transfer is complete. <b>Again, this could end up being 3 business days, or, if a Seller initiates on Friday, the buyer would have to accept on Monday which is 1 BD.</b>  <b>Best case scenario is that the entire process, from initiation to acceptance, would take 6 BDs.</b>			If transfer process is not completed prior to this, transaction is void.			