



June 19, 2015

Electronically Submitted at <http://www.arb.gov/lispub/comm/bclist.php>

Clerk of the Board
Air Resources Board
1001 I Street
Sacramento, CA 95814

Dear Sir or Madam:

Flint Hills Resources (FHR) is pleased to submit the following comments in response to the following Notice of Public Availability of Modified Text and Availability of Additional Documents and Information:

Proposed Re-Adoption of the Low Carbon Fuel Standard (Public Availability Date: June 4, 2015)

FHR through its subsidiaries is an industry leader in refining, chemicals, and biofuels and ingredients, with operations primarily in Texas and the Midwest. Its manufacturing capability is built upon six decades of refining experience, and the company has expanded its operations through capital projects and acquisitions worth more than \$11 billion since 2002. FHR's subsidiaries produce and market gasoline, diesel, jet fuel, asphalt, ethanol, biodiesel, liquefied natural gas, olefins, polymers, intermediate chemicals, as well as base oils, inedible corn oil and distillers grains. Based in Wichita, Kansas, the company has about 5,000 employees and is a wholly owned subsidiary of Koch Industries, Inc.

FHR operates fuel ethanol plants in Iowa, Nebraska and Georgia, and manufactures significant volumes of denatured fuel ethanol. FHR is currently constructing a biodiesel plant in Beatrice, Nebraska and intends to market and distribute this fuel in California and, therefore, has a vital interest in the above referenced proposal.

Provisional Pathway Provision Should be Modified to Avoid Unintended Consequences

The modified Provisional Pathway provision of proposed Section 95488(d)(2) (see Summary of Proposed Modifications Item #25), which has been expanded to include Tier 1 facilities, may not fully meet its intended purpose of encouraging the development of innovative fuel technologies. Specifically, FHR believes that a restriction from selling, transferring, or retiring credits for compliance, or transferring fuel with obligation for facilities in commercial operation for less than two years will likely stymie the development and supply of Tier 1 alternative fuels.

FHR believes that Section 95488(d)(2) may be misinterpreted to limit the Executive Director's authority to approve fuel pathway codes and carbon intensities (CIs) for fuels produced for less than two years. Section 95488(d)(2) states, "The applicant may not sell credits generated under a provisionally-approved fuel pathway, or transfer the provisional fuel with obligation, until the Executive Officer has adjusted the CI or informed the producer that the provisional CI has been successfully corroborated by operational records covering a full two years of commercial operation (emphasis added)". FHR is concerned that the ending phrase, underlined above, could be interpreted to mean that an adjusted, certified CI must be supported with a minimum of two years of operational records.

FHR believes that the Executive Officer should have the discretion to waive the two year operational records requirement and certify CIs. This discretion would mirror the current practice, whereby the Executive Officer certifies a prospective CI, after receiving a pathway application substantiated by plant engineering design mass and energy balance information, and by requiring the applicant to subsequently submit operational records on a quarterly basis, as a means to validate the CI. In the case of a prospective CI, as well as any certified fuel CI, the applicant would be subject to ARB's authority under Section 95495 to suspend, revoke, or modify an approved CI that is determined to be invalid, as well as the LCFS Fuel Producer Attestation requirement within Section 95488(c)(2)(C).

If a determination is made that the Executive Officer must require two years of operational records, FHR believes that investments in production facilities for Tier 1 alternative fuels will be deterred and the supply of alternative fuels will be constrained, based on the following economic consequences:

1. Alternative fuel producers restricted from selling credits will have delayed income for up to two years.
2. Alternative fuel producers restricted from retiring credits for compliance may need to purchase credits from the ongoing LCFS credit market to meet an annual compliance obligation, thereby increasing expenses for up to two years.
3. Alternative fuel producers restricted from transferring fuel with obligation will need to purchase credits from the ongoing LCFS credit market and transfer the credits to fuel-buying regulated parties, thereby increasing expenses for up to two years.

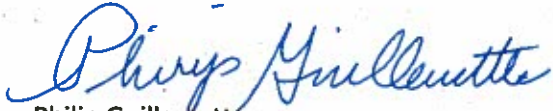
FHR Recommends Minor Text Changes

FHR believes that a misinterpretation can be avoided by ARB incorporating the following minor changes in "**bold**" to Section 95488(d)(2):

The applicant may not sell credits generated under a provisionally-approved fuel pathway, or transfer the provisional fuel with obligation, until the Executive Officer has either: **1) adjusted certified** the CI, or **2) informed the producer that the provisional CI has been successfully corroborated by operational records covering a full two years of commercial operation.**

Should you have any questions, please contact FHR's VP, Quality and Compliance, Rita Hardy (rita.hardy@fhr.com, 316/828-7840), or myself, for further information or to schedule a meeting to discuss.

Sincerely,



Philip Guillemette

Compliance Manager, Operations

Flint Hills Resources

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