



Thomas A. Umenhofer
Vice President

February 18, 2020

Clerk's Office
California Air Resources Board
1001 I Street
Sacramento, California 95814

<https://www.arb.ca.gov/lispub/comm/bclist.php>

Re: WSPA Comments on Proposed CARB LCFS Regulation Amendments 15-day Modifications

Clerk of the Board:

The Western States Petroleum Association (WSPA) appreciates the opportunity to provide the following comments regarding the proposed California Air Resources Board (CARB) Low Carbon Fuel Standard (LCFS) Regulation Amendments 15-day Modifications, dated February 3, 2020. WSPA is a non-profit trade association that represents companies that explore for, produce, refine, transport, and market petroleum, petroleum products, natural gas and other energy supplies in California and four other western states.

General Comment

Compliance Plan Confidentiality: As noted in the WSPA Comment Letter, dated November 11, 2019, we remain concerned that requiring a party to submit a compliance plan so intimately tied to a sensitive commodity market crosses a confidential business information (CBI) threshold. Pursuant to the revised §95485(c)(2)(C)(1), WSPA requests that CARB confirm that Compliance Plans will be kept confidential or, at a minimum, allow for redaction of CBI as indicated by the Plan submitter.

Specific Comments

§ 95485(c)(2)(B): In this section, August 31st is cited as the day entities are required to submit Compliance Plans and Annual Compliance Reports. Thus, an entity that goes into the CCM in 2020 for 2019 reporting and in 2021 for 2020 reporting would have to submit a Compliance Plan the same day as an Annual Compliance Report for 2020 (on August 31, 2021). WSPA believes that this situation needs to be addressed in the regulations from a timing standpoint.

§ 95485(c)(2)(D): For clarity and consistency, WSPA requests that the following underlined language be added to §95485(c)(2)(D) to clarify the conditions related to the following:

Entities required to acquire advanced credits in the Credit Clearance Market must complete payment to the seller before the credit transfer is initiated, unless the buyer and seller agree on other payment terms. Entities required to sell voluntary credits in the Credit Clearance Market must complete credit transfer before payment is made, unless the buyer and seller agree on other payment terms. All credit transfers must be completed on or before the final date of the Clearance Market Period.

§ 95485(c)(3)(D)(3): WSPA suggests that CARB reset the annual LCFS credit price cap to take effect starting every July 1st instead of every June 1st as LCFS reports are due on a quarterly

basis. This date change would avoid having to report LCFS credit transactions under two different price caps in the second quarter of each year.

§ 95487(a)(2)(D): This section states:

"Sell or transfer credits at a price that exceeds the Maximum Price for credits in the Clearance Market which is set in the pursuant to section 95485(c)(3)(D)"

This regulatory language does not make it clear that the "Maximum Price" applies to all LCFS credits, not just those credits in the CCM. CARB's "Low Carbon Standard Frequently Asked Questions – Effective Date for LCFS 2019 Amendments" (FAQ), dated February 2020, appears to address the matter in the first question response:

1. Under the current LCFS regulation, the Maximum Credit Price applies only to credit transactions taking place in the credit clearance market (CCM). When the amendments approved by the Board in November 2019 take effect, this Maximum Credit Price will apply to all credit transactions. When do the LCFS amendments go into effect?

The LCFS amendments will not be effective until they are approved by the Office of Administrative Law (OAL) through the regulatory approval process required by law. The pending amendments are currently on schedule to become effective July 1, 2020.

*At the time of approval, OAL will also confirm the effective date of the regulatory amendments (hereafter referred to as the Effective Date). The Effective Date of the amendments will be the first day that the **Maximum Credit Price will apply to credit transactions outside of the CCM** (hereafter referred to as non-CCM transactions).*

While the FAQ response is helpful, WSPA believes that the regulatory language is ambiguous and requests that CARB clearly state in the regulation that the "Maximum Price" applies to all LCFS credits, not just those credits in the CCM.

§ 95491: Table 12 of this section has been amended to indicate when the new maximum credit price goes into effect. However, there is no date certain when the new maximum credit price will be published. WSPA recommends that Table 12 be further amended to include a line item with the date when the new price will be published.

WSPA appreciates the opportunity to provide feedback on this important issue. If you have any questions, please contact me at (805) 701-9142 or via email at tom@wspa.org.

Sincerely,



Cc: Catherine Reheis-Boyd – WSPA