Jim Duffy

From:	Botill, Matthew@ARB <Matthew.Botill@arb.ca.gov>
Sent:	Wednesday, October 23, 2024 1:56 PM
To:	Jim Duffy; Ramalingam, Jordan@ARB
Cc:	Monroe, Gabriel@ARB
Subject:	RE: How to interpret the proposed text in section 95484

Jim - Thanks for the email.

Matthew Botill
Division Chief
Industrial Strategies Division
California Air Resources Board
279-208-7930

From: Jim Duffy <duffje@msn.com>
Sent: Wednesday, October 23, 2024 11:42 AM
To: Ramalingam, Jordan@ARB <Jordan.Ramalingam@arb.ca.gov>
Cc: Botill, Matthew@ARB <Matthew.Botill@arb.ca.gov>; Monroe, Gabriel@ARB <Gabriel.Monroe@arb.ca.gov>
Subject: RE: How to interpret the proposed text in section 95484

Hi Jordan,

Below is my analysis of the revised AAM. Since you have refused to clarify the very confusing regulation language, I decided to analyze both potential interpretations. Unfortunately, both are problematic.

Best,
Jim

Problem with Using a Four Quarter Rolling Trigger for the AAM

Hypothetical Scenario A: In this hypothetical scenario, I assume that the updated benchmark schedule gets announced on May 15 following a trigger, and then the updated benchmark schedule goes into effect on January 1 following the May 15 announcement.

Trigger #(N+1) occurs on November 15, 2029. The updated benchmark schedule gets announced May 15, 2030, and the acceleration goes into effect on January 1, 2031. On January 1, 2031, there will be a 9% stepdown due to this acceleration.

Trigger #(N+2) occurs on February 14, 2031. The updated benchmark schedule gets announced on May 15, 2031, and the acceleration goes into effect on January 1, 2032. On January 1, 2032, there will be 9% stepdown due to this acceleration.

The result is that there will be a 9% stepdown in 2031 and another 9% stepdown in 2032. Moreover, the “N+2” trigger reflects market data that happens before the “N+1” acceleration takes effect. In other words, insufficient time is allowed to evaluate whether or not the “N+1” acceleration corrects the market.

Hypothetical Scenario B: In this hypothetical scenario, I assume that the updated benchmark schedule goes into effect on January 1 of the year following the trigger.

Trigger #(N+1) occurs on February 14, 2030, and the acceleration (9% stepdown) goes into effect on January 1, 2031.

Trigger #(N+2) occurs on May 15, 2031, and the acceleration (9% stepdown) goes into effect on January 1, 2032.

Similar to Hypothetical Scenario A, the result will be a 9% stepdown in 2031 followed by a second 9% stepdown in 2032. Again, insufficient time is allowed to evaluate whether or not the "N+1" acceleration corrects the market before the "N+2" trigger occurs.

Conclusion: The potential for 9% stepdowns to occur in consecutive years is a problem that needs to be corrected. Such a situation would increase the percent CI reduction from approximately 30% to approximately 50% by 2032 (or potentially earlier if additional accelerations occur prior to 2031). This would most likely result in a rapid change from credit oversupply to a large credit undersupply with the credit price going to the cap. A 50% CI reduction target with credit price at the cap would result in a pass-through cost to gasoline of approximately $1.50.

From: Ramalingam, Jordan@ARB <Jordan.Ramalingam@arb.ca.gov>
Sent: Wednesday, October 16, 2024 11:31 AM
To: Jim Duffy <duffje@msn.com>
Cc: Botill, Matthew@ARB <Matthew.Botill@arb.ca.gov>; Monroe, Gabriel@ARB <Gabriel.Monroe@arb.ca.gov>
Subject: RE: How to interpret the proposed text in section 95484

Hi Jim,
Given the market nature of the program, I can't clarify that just for you. Please put your comments/questions into the docket so we can respond in the FSOR for everyone to see.
Thank you,
Jordan

From: Jim Duffy <duffje@msn.com>
Sent: Wednesday, October 16, 2024 2:10 AM
To: Botill, Matthew@ARB <Matthew.Botill@arb.ca.gov>; Ramalingam, Jordan@ARB <Jordan.Ramalingam@arb.ca.gov>; Monroe, Gabriel@ARB <Gabriel.Monroe@arb.ca.gov>
Subject: How to interpret the proposed text in section 95484

Dear Matt, Jordan, and Gabriel,

I am confused by the regulation text for the AAM in section 95484. Depending on how you squint at it, it appears as if the text can be interpreted in two very different ways. I'm hoping that you can quickly inform me as to the actual intent, so that I can write my comments appropriately.

So here is a hypothetical: The AAM gets triggered for the first time and announced on August 15, 2030. Does the first acceleration occur on January 1, 2031? Or does the first acceleration occur on January 1, 2032?

The reason that I ask is that sections 95484(c) and 95484(d) could be interpreted as saying two very different things. For a trigger announced on August 15, 2030:

1. Section 95484(c) seems to imply that on May 15, 2031 the updated benchmark schedule will be announced with the intent that this updated schedule will then supposedly go into effect on January 1, 2032. This interpretation seems to be consistent with your statement in the Notice about providing "earlier notice to stakeholders that the AAM has been triggered, providing further market certainty and lead time to LCFS participants."

2. However, sections 95484(c)(2) and 95484(d) also clearly read that the acceleration will take effect on January 1, 2031. Section 95484(c)(2) reads that the "<u>updated benchmark schedule</u> posted pursuant to 95484(c)(1) will override any prior benchmark schedules and <u>will take effect January 1 of the calendar year after the Automatic Acceleration Mechanism was triggered</u>." Since the AAM was triggered on August 15, 2030, this means the acceleration will occur on January 1, 2031. Section 95484(d) also reads that the benchmark "will be advanced by one year each time the Automatic Acceleration Mechanism has been triggered pursuant to section 95484(b)." This means that the benchmark for 2031 will be advanced by one year based on a trigger that is announced on August 15, 2030. This interpretation is not consistent with your stated objective of providing earlier notice to stakeholders but is a clear reading of the text. It also doesn't make sense that you would wait until May 15, 2031 to announce an updated benchmark schedule that has already gone into effect on January 1, 2031.

So, please let me know which interpretation was intended so that I can appropriately focus my comments.

Best,
Jim Duffy