



Rocky Elgie
General Director Fuel Mgmt.

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

Re: Proposed Re-Adoption of the Low Carbon Fuel Standard

To Whom It May Concern:

BNSF Railway ("BNSF") has been in communication with California Air Resources Board ("CARB") staff since approximately October 2014 regarding its concerns with the Low Carbon Fuel Standard Regulation ("Regulation") and, more specifically, its inability to take advantage of the exemption in the Regulation for fuel consumed by interstate locomotives. Despite multiple conversations and the submittal of multiple proposals, BNSF remains without a clear path to compliance that allows it to: 1) take advantage of the exemption for fuel consumed by interstate locomotives; and 2) avoid overpayment under the Regulation.

As a means to resolving this issue, BNSF is providing brief comments on the proposed additional changes to section 95483(a)(2) contained in the June 4, 2015 re-adoption package. More specifically, BNSF requests that certain language currently contained on Regulation page 17 be revised. Per the existing language, a transaction must occur above the rack in order for ownership of the LCFS obligation to be transferred. BNSF is unclear about why this language cannot apply to both above and below the rack transactions, at the buyer's discretion.

Such a change would give BNSF the ability to take on the LCFS obligation for all of its purchases. In doing so, BNSF would be able to avoid the scenario where suppliers pass along the cost of the obligation on all fuel, and instead, could provide an accurate accounting of what fuel purchased in California is used for intrastate and interstate consumption, respectively. Based on that accounting, it could then meet the obligation on only that portion of fuel purchased for intrastate consumption. BNSF has explored a variety of mechanisms for availing itself to the express exemption contained in the regulation and currently believes that from a practical perspective, this language change, would provide the simplest means to doing so.

Thank you for your consideration.

Sincerely,

Rocky Elgie
General Director Fuel Management
BNSF Railway