

December 16, 2011

Weaver, LLP Comments on LCFS Regulatory Amendments covering Credit Trading

Thank you for the opportunity to comment on the proposed amendments to the Low Carbon Fuel Standard (LCFS). I would like to focus my comments on the proposed trading platform and the L-CIS program to be developed.

- The use of unique identification numbers for each credit generated should be avoided if at all possible. The recent history with the 38 digit RFS1 RINs demonstrated the problems inherent in that type system.
- Sufficient identification should be required in order to be able to identify the producer of the credits and the date (or at least the year) the credits were produced in order to meet the requirements of the credit trading program. One example is the "carry back" program. Current year credits are not allowed to be used for compliance under this program. How are the current year credits going to be tracked to know they are not used?
- Currently the reporting tool collects data on the production facility when a reportable transaction occurs. Under the proposed credit trading regulations, the agency transfers credits from one account to another when a credit trade occurs. Will the information identifying the generator of the credits and date of generation accompany the credits to the new owner's credit bank? The proposed regulations anticipate a retirement hierarchy that will be selected by the regulated party or by the Executive Officer if the regulated party does not select. Is there currently enough information being retained in the banks to differentiate between the banked credits? Will the Seller have the capability to select credits from his inventory for sale by origin of generator, date of generation, or first in first out?
- If credits purchased by an intermediate party who has purchased and sold other credits are deemed invalid, how will invalid credits be identified?
- The RFS2 EMTS system provides registered parties with the capability of blocking receipts of credits from generators that they suspect may not be generating credits properly. Is that contemplated for L-CIS?
- My understanding is that Agents approved by seller or purchaser will have capability to submit transactions for clients, but they must be registered in the program. ARB should take into consideration that Agents may have multiple clients and the registration process for Agents should be designed to accommodate that.

- As noted in the 2011 Program Review Report, ARB's preference is that all transactions are conducted through them. Hopefully, L-CIS will allow this without requiring manual intervention of ARB in the trade itself.
- EPA has stressed the "buyer beware" approach when purchasing RINs under the RFS program. Recently several companies received NOV's from EPA for using credits to meet obligations which the companies believed to be properly generated. Who does ARB see as the party responsible for insuring that credits under the LCFS program are properly generated, transferred and retired?

Thank you for your time and consideration of these comments.

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