**REQUEST FOR AN EARLY EFFECTIVE DATE**
**Pursuant To Government Code Section 11343.4(b)**

The California Air Resources Board (CARB or Board) formally requests, under Government Code section 11343.4(b), that the Office of Administrative Law (OAL) prescribe an early effective date for the amendments to the Low Carbon Fuel Standard regulation (LCFS) title 17, California Code of Regulations (Cal. Code Regs.), sections 95480, 95481, 95482, 95483, 95483.1, 95483.2, 95484, 95485, 95486, 95487, 95488, 95489, 95490, 95491, 95492, 95493, 95494, 95495, 95496, and 95497, including adoption of new sections 95483.3, 95486.1, 95486.2, 95488.1, 95488.2, 95488.3, 95488.4, 95488.5, 95488.6, 95488.7, 95488.8, 95488.9, 95488.10, 95490, 95491.1, 95498, 95499, 95500, 95501, 95502, and 95503, and amendments to the Regulation on Commercialization of Alternative Diesel Fuels (ADF regulation), title 13, chapter 5, article 3, subarticle 2, section 2293.6 and Appendix 1, that were approved for adoption by the Board at its hearing on September 27, 2018. Specifically, CARB requests that the amendments be effective upon filing with the Secretary of State. The following demonstrates "good cause" for OAL to allow the amendments to be effective on the date requested.

## DEMONSTRATION OF GOOD CAUSE

In this rulemaking, the Board considered and adopted amendments to the LCFS and ADF Regulations primarily to adjust and strengthen the LCFS carbon intensity (CI) reduction standards from 2020 to 2030. As part of that strengthening and adjustment, the adopted amendments change the existing CI reduction trajectory by adjusting the standards for years 2019 through 2021.

This adjustment was designed to facilitate achievement of additional long-run GHG reductions while reducing the probability of unnecessarily high short-run credit prices, which CARB staff analysis indicated may occur if the current regulation's requirements are retained. This adjustment changes the 2019 standards for California transportation fuels that would otherwise be in effect under the current version of the LCFS. These CI standards determine the number of credits or deficits attributable to all California transportation fuel subject to the LCFS. Thus, regulated parties make business decisions, investments, and negotiate contracts with the specific standard in effect in mind.

The LCFS sets annual carbon intensity standards, and regulated entities participate in a credit trading market based on the value and volume of credits and deficits generated by market participants. The amendments change the carbon intensity standards for 2019. The volume of credits and deficits generated is determined by the annual standard. The value of credits is determined by the trading behavior of the market participants themselves, which is derivative of the market pressure imposed by the annual standard. At this point the expected LCFS credit or deficit value is likely factored in to fuel pricing throughout the state.

If an early effective date for the amendments – which lower the applicable standards for 2019 – is not granted, applying two different annual standards for different parts of 2019 would be very likely to cause a significant disruption to the LCFS market. Specifically, regulated entities would likely face confusion in business interactions regarding the applicable LCFS value of the fuels sold into the California market, which could be compounded by volatility in the LCFS credit price.

The LCFS credit price is currently near a historic high of around $200 per credit, and delaying the effective date of the amendments contrary to market expectations would likely cause the price to rise very significantly, and could be a destabilizing shock to not only the LCFS credit market, but also the statewide transportation fuel market. There could be substantial implications for gas prices in the state, for programs dependent upon revenues from the LCFS market, and for compliance plans for all affected entities. OAL has previously recognized the importance of market certainty in providing early effective dates for CARB's analogous Cap-and-Trade regulation, and should do so here.

Accordingly, the requested effective upon filing with the Secretary of State will provide regulated parties certainty and avoid any potential confusion or dispute regarding which benchmark is in effect after that date.

For these reasons, CARB believes good cause exists for OAL to grant CARB's request for an early effective date upon filing with the Secretary of State.

Date: January 3, 2019

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