



# Low Carbon Fuel Standard

## Frequently Asked Questions

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### EFFECTIVE DATE FOR LCFS 2019 AMENDMENTS

**Posted: February 2020 (Questions 1 - 4)**

**Updated: April 2020 (Questions 5 - 9)**

### INTRODUCTION

The California Air Resources Board's (CARB) Low Carbon Fuel Standard (LCFS) regulation, which appears at sections 95480 to 95503 of title 17, California Code of Regulations, is designed to reduce greenhouse gas emissions associated with the life cycle of transportation fuels used in California. CARB staff has prepared this document to address frequently asked questions (FAQ). These answers may be based in part on case-specific factual circumstances and are offered here only as guidance that does not supplant the requirements of the LCFS regulation. Unlike the regulation itself, this document does not have the force of law. It is not intended to and cannot establish new mandatory requirements beyond those that are already in the LCFS regulation, nor can it supplant, replace or amend any of the legal requirements of the regulation. Conversely, any omission or truncation of regulatory requirements does not relieve entities of their legal obligation to fully comply with all requirements of the regulation.

### BACKGROUND

On November 21, 2019, CARB approved for adoption of amendments to sections 95481, 95483, 95485, 95486.1, 95487, 95491, and 95495 of the LCFS regulation.<sup>1</sup>

The purpose of this document is to address frequently asked questions related to effective date of these LCFS amendments.

- 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.

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<sup>1</sup> CARB, (Nov. 2019). *Public Hearing to Consider Proposed Amendments to the Low Carbon Fuel Standard Regulation*. Accessed at: <https://ww3.arb.ca.gov/regact/2019/lcfs2019/res19-27.pdf>.



## Low Carbon Fuel Standard Frequently Asked Questions

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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).

**2. Does the Maximum Credit Price apply to non-CCM credit transactions posted by the seller prior to the Effective Date but confirmed by the buyer after the Effective Date?**

No, the Maximum Credit Price will only apply to non-CCM credit transfers posted by the seller in the LRT-CBTS<sup>2</sup> on or after the Effective Date of the amendments.

**3. Does the Maximum Credit Price apply to agreements for future credit delivery in which the agreement is reached prior to the Effective Date but the transfer is posted after the Effective Date?**

Yes, the Maximum Credit Price will apply to all credit transfers posted in the LRT-CBTS on or after the Effective Date even if the agreement date for that credit transfer was prior to the Effective Date. While finalizing credit transfer agreements for a future delivery of LCFS credits, regulated entities must account for the Maximum Credit Price that would be effective at the time of credit transfer.

**4. Several of the LCFS amendments affect operation of the CCM, including the potential advancing of credits, extension of the CCM for an additional month, and additional requirements for credit transfers occurring in the CCM. Will these amendments affect the CCM in 2020 and what happens if OAL approval occurs during an ongoing CCM?**

Pursuant to section 95485(c)(3)(E)2. of the LCFS regulation, the Executive Officer will announce by May 15, 2020 whether or not a CCM will occur in 2020.

To avoid confusion if the amendments become effective during an ongoing CCM, CARB may, potentially in partnership with OAL, clarify a later Effective Date for those amendments that apply specifically to operation of the CCM. In that case, the CCM will operate pursuant to the current LCFS regulation.

**5. What will happen to credit transfers initiated in the LRT-CBTS indicating a credit price higher than the Maximum Credit Price?**

It is the responsibility of the seller and buyer to ensure that the agreed upon credit transfer price does not exceed the Maximum Credit Price. The LCFS Reporting Tool - Credit Banking and Transfer System (LRT-CBTS) will not allow transfer of credits for

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<sup>2</sup> LCFS Reporting Tool and Credit Bank and Transfer System (LRT-CBTS)



## Low Carbon Fuel Standard Frequently Asked Questions

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transactions that are posted by the seller and accepted by the buyer with a credit price above the Maximum Credit Price.

The LRT-CBTS will not prevent sellers from initiating sale or transfer of credits at a price higher than the Maximum Credit Price, nor prevent buyers from accepting such a sale or transfer. However, the LRT-CBTS will contain a system check that will prevent delivery of credits from seller's account to buyer's account if the price is higher than the Maximum Credit Price. CARB staff will be notified if a seller and a buyer attempt to complete a credit transfer at a price higher than the Maximum Credit Price.

### **6. What are the consequences to regulated entities who transfer, sell, or attempt to transfer or sell credits at a price above the Maximum Credit Price?**

Once the LCFS amendments go into effect as discussed above, a trade above the Maximum Credit Price would violate the LCFS regulation and would trigger potential CARB investigation and enforcement action, which could include penalties.

### **7. How will the Maximum Credit Price be implemented for transactions in which LCFS credits are bundled with other products?**

In a bundled transaction of credits with fuel (e.g., fuel sale with obligation) or any other product, the underlying value of the transferred LCFS credits must not exceed the Maximum Credit Price. As part of market monitoring, CARB may conduct audits, review contracts, and enforce the regulation to ensure that no entity sells or transfers credits at a price that exceeds the Maximum Credit Price, including transactions where credits are bundled with other products.

### **8. Will LCFS credit transaction agreements that do not specify a credit price be allowed?**

For transaction agreements that do not specify the price of LCFS credits, section 95487(b)(1)(F) of the LCFS regulation requires the seller to provide a brief description of the pricing method for the full transaction inclusive of all products and value exchanged while indicating which of the following reasons applies:

- The proposed credit transfer is to reflect an adjustment in CI value of fuel transacted between Seller and Buyer
- The proposed credit transfer incorporates a credit trade along with the sale or purchase of other product, and does not specify a price or cost basis for the sale of the credits alone.



## Low Carbon Fuel Standard Frequently Asked Questions

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- 9. After the seller initiates a credit transfer, the buyer has up to 10 days to review and accept the pending credit transfer. If the Maximum Credit Price changes between the day when the seller initiated the credit transfer and the day when the buyer accepted the pending credit transfer, then what will be the effective Maximum Credit Price for that credit transfer?**

See response to question 2. above. The Maximum Credit Price effective on the day when seller initiates the credit transfer is the Maximum Credit price effective for the credit transfer, irrespective of when the buyer takes action on the pending credit transfer.

### **Contact**

If you have questions regarding the above information, please contact Firas.Abu-Sneneh at [Firas.Abu-Sneneh@arb.ca.gov](mailto:Firas.Abu-Sneneh@arb.ca.gov) or (916) 323-1009, or Arpit Soni at [Arpit.Soni@arb.ca.gov](mailto:Arpit.Soni@arb.ca.gov) or (916) 323-2661.