

Comments Received After the Workshop November 6, 2015

Comment 1: Neste Oil

Comment 2: EcoEngineers

Comment 3: Western States Petroleum Association

Comment 4: California Biodiesel Alliance

Comment 5: Community Fuels

13 November 2015

California Air Resources Board
Sam Wade, Chief, Transportation Fuels Branch
Anil Prabhu, Manager, Fuels Evaluation Section
Sent via email

Re: Comments to Low Carbon Fuel Standard Guidance Workshop - Pathway Re-certification and Evaluation Guidance - 6 November 2015

Dear Mr. Wade and Mr. Parbhu:

Thank you for the opportunity to provide comments to the California Air Resources Board (CARB) regarding its guidance for pathway re-certification and evaluation.

First, we appreciate that staff has committed to complete the re-certification process of all legacy pathways before they expire on 31 December 2016. We believe that it is vitally important for staff to maintain its timetable and complete the re-certification by the end of 2016. Otherwise, it will have a significant negative impact on the availability of credit generating fuels and will be an adverse obstacle to the ongoing compliance and business plans of participants in the California fuel market. We also believe that the deadline of 31 January 2016 is appropriate for parties to complete the re-certification request.

Staff has also proposed to release the re-certification of similar fuels in a group. We agree that the release of all ethanol or all biodiesel at the same time will help minimize unfair advantages among fuel producers.

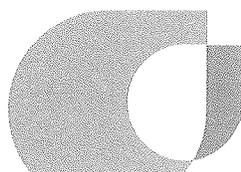
Staff proposes that a re-certification applicant will have only seven days to review and respond to the proposed re-certification calculation. The guidance should allow for additional flexibility to respond in the event that the applicant has questions or disagreements with the application of the model or determine a calculation or input error. A longer time would also allow greater flexibility to ensure that the proper and authorized representative is available to execute the attestation letter.

Also, the ability to review re-certification results requires specialized training and expertise. In some leanly staffed organizations, it is likely that the one person capable of reviewing might be unavailable for the short window of time allowed (especially if applicant has no advance warning of when the window will occur).

A seven-day window to review the calculations, discuss any questions, identify and correct any discrepancies, and obtain a signed attestation letter is unnecessarily short. Staff may require a timely response to be a part of the group release, but should not unduly penalize an applicant

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who is unable to quickly respond. We propose that the window of time be expanded to allow for adequate time to review and respond to re-certification calculations.

We look forward to continued participation in the California fuel market and the continued success of the Low Carbon Fuel Standard. Please do not hesitate to contact me if at 713.407.4415 or Dayne.Delahoussaye@Neste.com if you have any questions regarding the foregoing.

NESTE US, INC.

A handwritten signature in black ink that reads "Dayne Delahoussaye". The signature is written in a cursive style with a large, stylized initial "D".

Dayne Delahoussaye

November 13, 2015

COMMENT 2

Cal/EPA Headquarters Building
1001 "I" Street
Sacramento, California 95814

RE: Pathway Re-certification and Evaluation Guidance Comments

To Whom It May Concern,

Introduction

EcoEngineers staff participated and reviewed all information presented at the 11/6/2015 workshop and would like to offer comments on the re-certification of pathways and approval process proposed by CARB staff. These comments cover the following areas:

1. 20% CI Reduction Requirement for Tier 1 Ethanol Facilities to apply for Tier 2
2. Sustainability Requirement for 2A Applications

1. 20% CI Reduction Requirement for Tier 1 Ethanol Facilities to apply for Tier 2

The 20% reduction requirement for Ethanol facilities to achieve Tier 2 status could act as a disincentive for efficiency improvements. The volume of fuel produced at ethanol facilities and shipped into CA is very large, so a relatively small reduction, such as 10%, could have a much larger reduction for GHG emissions than a reduction of 20% for fuels that provide less volume.

To illustrate, a 10% reduction in CI for an ethanol pathway with a CI of 80 gCO₂e/MJ would result in a reduction of 8 gCO₂e/MJ. For a facility shipping 60,000,000 gallons of ethanol into California, this would result in approximately 40,000 additional CI credits being generated for the same fuel.

We support making an exception for ethanol facilities to be able to become a Tier 2 fuel because it could have a significant impact on the ability for facilities to reduce their CI and to capture the value created by this reduction. A 20% reduction may be out of reach for many facilities and may lessen the push to innovate.

2. Substantiality Requirement for 2A Applications

One final comment is that the 2A substantiality requirement may cause some difficulties for fuel producers whose technologies produce less than 10,000,000 gallons at individual facilities, but produce far greater than 10,000,000 gallons combined. We encourage staff to consider the total amount of fuel produced by a company as the basis for a 2A application as long as the CI reduction requirement is also met. This will reduce the burden imposed by the application process for producers with multiple small volume sites and for CARB staff processing applications.



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Conclusion

EcoEngineers is grateful for the opportunity to offer comments and welcomes any further questions or clarifications from CARB staff. You can find our contact information at www.ecoengineers.us/contact-us/ or contact me directly using the information below.

Sincerely,

A handwritten signature in black ink, appearing to read "John Sens".

John Sens
LCFS Program Manager
jsens@ecoengineers.us
515.309.1279 (office)

COMMENT 3



Western States Petroleum Association
Credible Solutions • Responsive Service • Since 1907

Gina Grey

Vice President, Fuels, Climate Policy, Southwest and Northwest Regions

November 20, 2015

Mr. Samuel Wade, Chief
Transportation Fuels Branch
California Air Resources Board
1001 I Street
Sacramento, CA 95814
Via electronic mail to Samuel.Wade@arb.ca.gov

Re: Western States Petroleum Association Comments on November 6th CARB LCFS Workshop to Discuss Pathway Re-certification using the CA-GREET 2.0 Model and the LCFS Reporting Tool and Credit Bank and Transfer System.

Dear Mr. Wade:

As indicated recently, the Western States Petroleum Association (WSPA) needed an additional week to convey our comments on the November 6th CARB LCFS workshop, so we appreciate the extra time allowed by staff. WSPA is a non-profit trade association representing twenty-five companies that explore for, produce, refine, transport and market petroleum, petroleum products, natural gas and other energy supplies in California and four other western states.

We have six main comments at this point in time but will have additional comments and questions as your agency works in the coming months on these issues.

- 1) WSPA supports the concept of ARB allowing the use of revised fuel pathway CI values by obligated parties when submitting quarterly reports in 2016. This includes retroactively reporting the updated CI values for past transactions where the older values were used in 2016. This is an equitable approach given that ARB requires time to process the revisions, but that the revised CI values really represent the carbon intensity of fuels in use today.

In fact, WSPA urges ARB to allow revisions for all revised CI pathway values back to the beginning of 2016 based on the effective date of the revised regulation, provided the pathway reissue application was filed by the Jan 31, 2016 deadline, even if this means that obligated parties reopen quarterly reports that were submitted before the revised pathway values are published. This enables all reports in 2016 to accurately reflect the updated CI values and maximizes associated credit generation, which is ultimately a matter of fundamental fairness to obligated parties since hydrocarbon fuels begin generating increased deficits from their revised CI values at the beginning of next year.

WSPA does not support applying this retroactivity to producers that do NOT meet the regulatory recertification deadlines.

- 2) During the workshop, other regulated parties expressed concern with the concept of retroactive CI reporting and the potential for inconsistency with the CI values reported on PTDs at the time the actual fuel transactions occurred. To the extent these concerns are related to the commercial terms of past transactions, WSPA believes these concerns can be addressed between business partners outside of the regulation.

With regards to the inconsistency between what CI values are reported and what CI values were on the PTDs, WSPA believes that ARB can utilize enforcement discretion during 2016 on this issue given the requirements in the amended regulation to update the pathways and the new PTD provisions. Obligated parties should be able to demonstrate to ARB that the transactional records reflecting previous CI values are traceable to specific transactions with the updated CI values as necessary to satisfy any subsequent data reviews by ARB. This is enabled by the revised PTD provisions that require tracking at the facility and company ID level beginning 1/1/2016.

WSPA requests such enforcement discretion be provided in writing as part of the revised LCFS Guidance Document or via a Regulatory Advisory in order to avoid the uncertainty that has plagued obligated parties in the recent past regarding reconciliation and the ability to reopen quarterly reports.

- 3) WSPA also requests that ARB post on the LCFS website a list, by fuel production company and facility, the old fuel pathway code and CI value and the corresponding new pathway code and CI value which should be used for reporting. If there is not a one-to-one correspondence, then ARB should give specific instructions (in the posting, or in a Q&A document) explaining the procedure that obligated parties should use for reporting the correct retroactive fuel pathway codes and CI's.

WSPA does NOT support and sees no need for PTD's to be re-issued. WSPA asks that ARB:

- a) State in the new fuel pathway code and CI posting that re-issuing PTD's is not required, or,
 - b) Make such a statement in the Q & A document, or,
 - c) Make a statement in the Q&A document that companies may elect to use a blanket document to notify their business partners (preferably using a conversion table) of the old fuel pathway codes and CI's that were in the PTD's issued, and the new fuel pathway codes and CI's that should be used instead, for reporting purposes.
- 4) WSPA found ARB's Question & Answer Document to be very helpful and useful. We hope that ARB will add to this document as the new regulations are implemented, and include issues such as those that we have raised in our comments above.
 - 5) WSPA requests that ARB ask companies to voluntarily provide company contact information for LCFS PTD purposes. These company contacts would then be posted on the LCFS website, and business partners could use them to supply the company contact requirement of the seller and buyer on the new PTD's. WSPA suggests ARB advise companies that they

can provide an email address (i.e. LCFSPDInquiries@XYZOil.com) rather than an individual's name and phone number if they elect to provide contact information.

- 6) WSPA is pleased to hear that ARB will be developing rules and procedures for third-party verification of LCFS fuel pathways. We believe this will be a valuable tool in ensuring the reliability of alternative fuel carbon intensity values. We encourage ARB to concentrate on the QAP example as a model for verifying fuel pathways. The focus of this effort should be on the initial generation of credits, meaning that feedstock, facilities, and processes are being reviewed to ensure the fuel that enters the state (whether through production or imports) is being delivered with valid carbon intensity assigned. The QAP process is a good example of this and, as mentioned during the workshop, involves several third-party auditors who have already begun to develop procedures related to the LCFS that can be applied hand-in-hand with the QAP review.

We understand the importance of ARB's ability to establish its own version of the program and do not propose simply accepting the QAP as verification of an LCFS pathway. However, expanding a QAP audit to also verify LCFS requirements would be the simplest, most cost-effective approach for third-party auditors as well as producers, while still delivering an effective, reliable result. WSPA cannot over-emphasize that any required verification program must be cost-effective.

- 7) We are awaiting ARB's completion of the review of international sustainability efforts and initiatives; summary of the recommendations of the (presumably concluded) 3-4 year working group effort that are still under consideration; and thoughts on how both of these could be woven together to satisfy the needs of the Board directive without imposing additional burdensome requirements on regulated parties. We look forward to participating in the rulemaking process next year and providing input and assistance as these programs develop.
- 6) Based upon materials provided at the workshop, ARB is moving to an electronic procedure (the new "Alternative Fuels Portal - AFP) for re-certifying existing pathways and for certifying new pathways. ARB intends to require the use of the AFP and intends to disallow the use of the current application process. In addition, ARB has very recently published a User Guide. WSPA has two concerns related to this topic:
 - The first relates to timing and the limited review time between the workshop and the comment deadline. Stakeholders have still not had sufficient time to review the User Guide and "test drive" the software. WSPA requests additional review time.
 - The second concern is the requirement to use ONLY the AFP for new and existing pathways. We are concerned that the new AFP may not be flexible enough or may not have been designed to handle a broad range of new, potential pathways. WSPA therefore requests some "transitional" time, or a hybrid approach where "hardcopy applications" and applications via the AFP are allowed.

We would be happy to discuss these WSPA comments and requests further in order to provide clarification to ARB staff, as well as to obtain insight into your thoughts and reactions. Please

contact me before December 2nd so we can ascertain next steps. My phone number is 480-595-7121.

Sincerely,

A handwritten signature in black ink, appearing to read "Anil Singh". The signature is written in a cursive style with a large initial 'A' and 'S'.

c.c. A. Prabhu, ARB

COMMENT 4



November 13, 2015

Sam Wade
Chief, Transportation Fuels Branch
California Air Resources Board
1001 I Street
Sacramento, CA 95812

RE: November 6th ARB workshop on LCFS pathway re-certification using the CA-GREET 2.0 model and the LCFS Reporting Tool and Credit Bank and Transfer System

Mr. Wade:

The California Biodiesel Alliance (CBA) values the opportunity to provide comments on the California Air Resources Board's (ARB) November 6th workshop on LCFS pathway re-certification using the CA-GREET 2.0 model and the LCFS Reporting Tool and Credit Bank and Transfer System. CBA is the state's biodiesel industry trade association, representing over 40 businesses and stakeholders and working to increase awareness about biodiesel as California's leading and widely available advanced biofuel that delivers significant economic, environmental, and energy diversity benefits.

We wish to offer a comment on the anticipated pathway release dates, specifically regarding the proposal to have the CI Effective Date retroactive to the beginning of the quarter in which the fuel batch recertification is deemed complete. We request that each producer be able to state during the pathway application process whether they elect to have their new CI score be retroactive to the 1st day of the quarter. Further, we request that if the producer elects not to retroactively apply the CI, the producer's new CI would go into effect 60 days from the release of the batch CI or 12/31/16, whichever is earlier.

We make this request for the following reasons. First, the reissuance of revised PTDs could be a very onerous process, as was mentioned by a biodiesel industry member at the workshop. Also, the financial hurdle of negotiating the value of an unknown CI score when selling biodiesel before the pathway has been recertified poses difficulties for our industry. The producer would have to either pass on its current CI score or sell based upon an estimated CI score and then go through a "true-up" process once the final score is known. This situation would create an entirely new level of counterparty risk if buyer or seller is relying upon a "true up" payment being made.

We believe that the state should not require buyers and sellers to take on uncontrollable financial risk. The buyers of those credits would ultimately pass on that risk to the producers, creating unfair market conditions for the biodiesel producers who market in California who would carry that burden.

Thank you again for your diligence and inclusive stakeholder participation process and for your consideration of these comments. Please feel free to contact me with any questions at (760-398-0815).

Sincerely,

A handwritten signature in blue ink that reads "Curtis Wright".

Curtis Wright
Chairman
California Biodiesel Alliance

COMMENT 5

From: Lisa Mortenson [<mailto:Lisa@COMMUNITYFUELS.COM>]

Sent: Monday, November 16, 2015 1:56 PM

To: Prabhu, Anil@ARB

Cc: Wade, Samuel@ARB; Chowdhury, Hafizur@ARB

Subject: RE: Comments from workshop

Hello Anil,

Several important topics were discussed during the recent LCFS Pathway re-certification workshop. Sam Wade requested that I put my comments in writing. Key points are summarized below.

1) Update ILUC values for all default and custom pathways effective 1/1/2016.

As you heard from multiple representatives of industry at the workshop, it is critical to update the pathways to incorporate the new, more accurate ILUC values as quickly as possible. I also understand that ARB wants to ensure the updates are completed at a single time in order to ensure a level playing field. (note: all fuels are in competition for LCFS market share, updating ethanol in Q1 and biodiesel in Q2 is not a level playing field and puts biodiesel blending at a competitive disadvantage to ethanol) The ILUC penalty is independent of any of the specific inputs for a default or custom pathway and therefore it would be very simple to update all pathways with the new ILUC value at one time. A global change to update ILUC values for all default and custom pathways effective 1/1/2016 is the best approach. This approach will:

- enable more accurate CI values to be used immediately by all parties,
- ensure a level playing field for all fuels by updating the ILUC at one time for all effected pathways,
- reduce the magnitude of the financial and administrative concern about having to retroactively adjust CI values to the beginning of the quarter in which the new value is approved,
- reduce the significant pressure on ARB to process all ethanol pathways within the first quarter and all biodiesel pathways within the second quarter, and
- enable producers to realize the value of the updated ILUC immediately which will help industry achieve the overall objectives of the LCFS program faster.

2) Implement a QAP Program for CI's at least on a trial basis.

CI Integrity is a growing concern of regulated parties. I encourage ARB to consider a CI Quality Assurance Program that will provide an indemnification to regulated parties similar to the EPA's Quality Assurance Program (QAP). As enforcement begins on LCFS, I anticipate that certain CI's will be determined to be invalid which could destabilize the LCFS program. This could occur if CI trading freezes due to concerns about CI integrity and/or if regulated parties reduce blending due to concerns about CI integrity. We saw both occur under the RFS program and many biofuel producers were severely impacted. I strongly encourage ARB to approve a Quality Assurance Program and to have this program in effect prior to any broad-scale enforcement activities. I understand that ARB has proposals from a team of experienced QAP auditors who are ready to provide a third party verification service similar to QAP, but customized to the LCFS program specifically. Even if ARB is not ready to provide a permanent QAP program, I encourage you to

authorize an interim program on a trial basis so that industry has a tool immediately available to address CI integrity concerns which are growing among regulated parties.

Thank you very much for your hard work on LCFS implementation and enforcement. I admire and respect the work that ARB is doing on this dynamic and complex subject.

Lisa Mortenson
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