



Comments Regarding 2014 May 30 LCFS Re-Adoption Proposals Workshop

Initial Demonstration of Fuel Introduced Into the Physical Transport Mode

In § 95488 (e)(2) of the Discussion Draft Released for LCFS Workshop on May 30, 2014 (Discussion Draft), following language is included:

For biogas injected into an interstate pipeline for transportation to California, the applicant must submit statements from the biogas suppliers and marketers that attest to the fact that the volume of biogas being supplied to California as a transportation fuel is not being claimed for other California or federal programs that would result in double counting of emission reductions.

Element Markets (EM) agrees with the inclusion of requirements in the regulation that preclude double counting of environmental attributes, these are in complete alignment with our company's current business and recordkeeping practices. The California Air Resources Board (ARB) has consistently communicated that transportation fuel produced from biogas and used in the State of California is eligible to generate both LCFS credits and Renewable Identification Numbers (RINs) under the federal Renewable Fuel Standard (RFS).

EM proposes to include language in the regulations that **explicitly allows the generation of both LCFS credit and RINs** for eligible transportation fuels.

Product Transfer Document Requirements

§ 95481 (51-1) of the Discussion Draft defines Product Transfer Document (PTD) as one (separate) document containing all information that is required for fuel transactions under the LCFS. The fact that ARB intends to introduce the requirement of creating a PTD as a separate document that is additional to any other transaction documentation (e.g. invoices, bills of lading) was confirmed verbally by ARB staff during the May 30, 2014 Public Workshop.

While EM would welcome the creation of an ARB-approved PTD template that may be used in various fuel transactions, we believe that the mandatory requirement of creating a PTD as a separate document for each fuel transaction would be an unneeded and counterproductive burden on the recordkeeping of reporting parties.

We believe that due to the many different fuel types and industry practices that are affected by the LCFS, reporting parties should be allowed flexibility in developing recordkeeping systems that satisfy all requirements of the applicable regulations. It is our opinion that mandatory creation of a separate PTD document does not add to the accuracy and security of recordkeeping under the LCFS program – since



possibly 100% of the information on the PTD is established in already present alternative documentation – but has the potential to significantly increase time and cost intensity of recordkeeping under LCFS.

EM proposes to **allow PTDs to be a collection of documents** that contain all required information – as done under the current LCFS and RFS regulations.

Definition of “L-CNG”

In § 95481(a)(11-1) of the Discussion Draft "Biogas L-CNG" is defined as follows:

“liquefied biogas that has been transported to a dispensing station where it was then re-gasified and compressed to a pressure greater than ambient pressure.”

Element Markets (EM) is a biogas marketer and a reporting party under the LCFS. Our company uses facility-specific Method 2 pathways for the reporting of LNG import in the LRT. Part of the Operating Conditions specified by ARB in the relevant pathway descriptions is following:

“...Element Markets must maintain an accounting system that will enable it to demonstrate unequivocally at any time that every unit of biomethane-based transportation fuel and reported under the LCFS can be associated with an equal unit of biomethane...”

EM retains all records that are necessary to demonstrate biogas sourcing and disposition, as well as the transfer of rights to any environmental attributes associated to the biogas. The physical link between the biogas sources and fuel production facilities is established as required by § 95484(c)(2) of the LCFS. Part of our ongoing recordkeeping practice is to collect and retain third party documentation showing the continuous metering of gas injection into the common carrier pipeline system by the biogas sources and gas withdrawal by the fuel production facilities in a manner and at a time consistent with the transport of fuel between the two points. Our recordkeeping practices were submitted to and approved by ARB Staff prior to submission of our Q1 2014 quarterly report.

In EM’s opinion, the wording of the L-CNG definition proposed in the Discussion Draft may be construed as a requirement to show the entire physical “flow” of each unit of biogas up to the dispensing station. This creates an additional and highly unpractical restriction on biogas delivery and usage in the State of California.

EM proposes to revise the language found in § 95481(a)(11-1) of the Discussion Draft as follows:

“Biogas L-CNG” means liquefied biogas that has been re-gasified and compressed to a pressure greater than ambient pressure for dispensing at a dispensing station.

We believe the proposed definition to be in complete alignment with the already existing biogas-related definitions found in § 95481.(a) (10), (11), (17), (39) of the LCFS.



Credit Proceeds from Electricity

EM welcomes all efforts made by ARB to create a solid framework under LCFS for the increasingly important role of Electric Vehicles in California's transportation fuel mix. We believe this to be a cornerstone of the program's and the CA fuel industry's future success.

In § 95483.(e)(1)(A) of the Discussion Draft, ARB proposes to allow more flexibility in the required benefits provided by Electrical Distribution Utilities to their customers. While EM supports this notion as it greatly contributes to the feasibility and development of EV deployment in the State of California, it is our opinion that the language *"Use all credit proceeds..."* poses a restriction on the practical implementation of renewable electricity supply to the State of California.

By requiring to use all credit proceeds to benefit customers, Electrical Distribution Utilities become unable to recover any third party costs (e.g. feedstock sourcing, transportation, environmental credit management services) that are connected to renewable electricity feedstock acquisition, generation and disposition. This greatly limits the Electrical Distribution Utilities in finding commercially viable feedstock sources for renewable electricity generation and the potential of EV application development in the State of California.

EM proposes to require the **net credit proceeds** to be used to benefit customers. This would allow Electrical Distribution Utilities to cover third party expenses connected to renewable electricity feedstock procurement and other services from credit proceeds and thus greatly increase the commercial opportunities of EV applications in the State of California.

Clarification Request

We kindly ask ARB staff for guidance regarding § 95481(a)(59)(A) of the Discussion Draft:

"Production for use in California" means the transportation fuel was produced inside or outside California and was designated at the time of production for use only in California

Please provide information on what ARB's criteria is for fuel being designated for use in California. In other words from a recordkeeping perspective, what proof would be necessary to demonstrate that an amount of fuel was "designated for use only in California"?