

California Air Resources Board
Mike Waugh
Chief, Transportation Fuels Branch
Sent via email

Re: Response to CARB 2014-04-04 Workshop
Fuel Pathway and Producer Registration
Cost Containment

Dear Mr. Waugh:

Thank you for the opportunity to provide comments to the California Air Resources Board (CARB) regarding its re-adoption of the Low Carbon Fuel Standard (LCFS).

The following comments are respectfully presented for consideration by Neste Oil US, Inc., a Texas based company, which is a subsidiary of Neste Oil Oyj. Neste Oil continues its successful strategy of focusing on the production of cleaner traffic fuels and is currently producing non-ester renewable diesel marketed under the name NEXBTL® at locations in Porvoo, Finland; Singapore; and Rotterdam, The Netherlands. Neste Oil uses a wide variety of sustainably produced vegetable oil feedstocks including soybean oil, palm oil, rapeseed oil, camelina oil, and various biogenic waste oils and residues including animal tallow, technical corn oil, and other triglyceride oils and free fatty acids usually produced as wastes or residues from various industrial processes. Neste Oil has delivered and plans to continue to deliver commercial volumes of NEXBTL, which qualifies as a low carbon fuel, to numerous customers in the United States and California. NEXBTL meets the ASTM D975 specification for diesel fuel, qualifies as CARB diesel, and is a fully fungible, drop-in fuel that can be used in existing diesel engines without a blend wall and which can utilize existing infrastructure.

FUEL PATHWAY AND PRODUCER REGISTRATION

CARB has identified a desire to amend the fuel pathway registration process to attempt to expedite the process of applying for conventionally produced, first generation fuels. Neste Oil acknowledges and appreciates the diligent work of CARB staff in processing original Method 1 pathways, along with numerous Method 2A and 2B applications. Neste Oil agrees that once a production pathway has been established and the producer's production parameters have been verified, all similar subsequent pathway applications should be expedited as the effort of staff to review and approve need not be duplicated. However, Neste Oil does not believe the proposed Tier system will accomplish these stated goals.

At this point, considerable time, effort, resource, and expense have been expended by both pathway applicants and CARB staff to approve and verify pathway applications. Any efforts to reform the pathway application process must be done with this in mind. **It would be a considerable waste of resources to discard the previously approved pathway applications and require replacement pathway applications and approvals under a new system.** Additionally, the currently approved pathways form an integral part of the LCFS participants' business plans. Program stability should be a cornerstone of any LCFS re-adoption strategy and any changes or modifications to the current program which would jeopardize this goal would be a severe detriment to its long-term success.

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CARB must keep the continued high functionality of the program as its highest priority during the re-adoption process. Already, indications that evaluation of current pathway applications – including applications for pathways with real commercial volumes of fuel to be imminently delivered to California – are being deprioritized and delayed in favor of efforts to conduct calculations for new pathway bins and new modeling. The Court of Appeals chose to leave the LCFS program in place during the re-adoption and transition period; presumably to continue to realize the real benefits from low carbon fuels in California. However, such benefits will not be fully realized if the implementation of the current program suffers due to only looking forward.

CARB has proposed that the new pathway applications for conventional fuels be placed in “bins”. Neste Oil contends that CARB staff’s effort to define a bin, to calculate the values and models that are to be included in the bin, and then to verify a pathway application to place it into a bin will be equal to, if not much greater, than the current pathway approval efforts. The significant upfront expenditure of CARB staff’s time and resources will run the risk of creating a significant delay in forward progress of the program and will not realize any real staff resource gains. Accordingly, Neste Oil strongly recommends against Alternative 1 (staff development of full range of Method 1 pathways).

Should a bin system nonetheless be implemented, Neste Oil recommends that each series of bins be adequately tailored to capture specific feedstock and production characteristics. One of the hallmarks of the LCFS program is that the full amount of the GHG savings related to a pathway can be recognized and realized. While incremental changes may be a perceived drain of staff resources, it is one of the key attributes that allows low carbon fuel producers to incentivize innovation and carbon savings. Without this incentive, fuel producers will forego potential new innovation due to a lack of appropriate commercial drivers. A bin structure would, by its very definition, unfairly reward underperforming pathways and unfairly penalize others.

Neste Oil agrees that bin size will also be a significant factor. Changes in CI values at the lower end of the spectrum have a greater percentage change than changes at the upper end. Therefore, it is imperative that the bin width be dynamic and have smaller ranges at the lower end.

ILUC Considerations

As a part of the re-adoption, CARB has made considerable efforts to update the indirect land use change (ILUC) values of corn ethanol and sugarcane ethanol as well as soy biodiesel, revising these values for all of these pathways downward by 10 to 30 g CO₂/MJ points. There are a considerable number of additional pathways and feedstocks which have not received the same modeling efforts and which would also benefit from increased modelling attention. The current proposals do not address how this challenge will be addressed on a going forward basis. Specifically, which crops will CARB address next? What is the time frame for CARB to address additional crop feedstocks? As a part of the re-adoption, Neste Oil recommends that CARB develop a plan to address ILUC values for other crop based feedstocks that do not have current values, and to develop a temporary solution to allow preliminary approval and use of new pathways until final ILUC values can be confirmed.

Possible Alternatives

Instead of the methods proposed, Neste Oil proposes that CARB adopt a pathway approval process similar to other jurisdictions. Specifically, that CARB authorize third-party verifiers, who are unrelated to the applicant, to perform due diligence on the proposed pathway and verify the CI modeling and

calculations. The role of CARB staff would then be focused on oversight and verification of Method 1 pathway applications, leaving Method 2 for more specific staff review, if desired. This methodology is in place in jurisdictions of British Columbia, Alberta, and Ontario and is functioning well. Additionally, the European Union's Renewable Energy Directive (RED) similarly allows producers to calculate actual production values, which then are confirmed by an independent third-party verifier. CARB adoption of a similar approach would require greater accountability on the applicant and verifier and would allow staff greater flexibility and resources to approve pathways.

Mixed Feedstock Guidance

Renewable fuels, including NEXBTL, can be produced from a diverse feedstock base. The ability to mix different raw material inputs together in the production process allows renewable fuel producers to procure and use different bio-based raw materials flexibly – on the basis of availability and price, carbon intensity, and other properties – to produce renewable fuel more efficiently and economically than from just one, specific raw material. A mass balance principle further allows a producer to procure specific feedstock requested by local regulations and customer demands and deliver the corresponding amount of finished renewable fuel to that customer or jurisdiction as a part of an integrated logistic system.

Neste Oil encourages CARB to continue and codify the current Mixed Feedstock Bio- and Renewable Diesel Guidance that continues to allow for administrative accounting and allocation of carbon intensities in proportion of finished fuel to source feedstock.

COST CONTAINMENT

Neste Oil agrees with CARB's assessment that there will be sufficient credits available for future compliance. Therefore, the need to implement a cost containment provision is unnecessary and is unduly burdensome.

A credit price cap does not accomplish the goal of increasing incentives to invest in low-CI fuels. The opposite is true. An investor knows that they will have only a fixed return that is not tied to performance, or other market conditions. This would serve as a destabilizing effect on the investment return calculations and will make new investments limited or non-existent.

Assuming an increase might be caused by a shortage of credits that caused the price to reach the ceiling, biofuel producers would have a disincentive to produce more low carbon fuels as that would increase the supply and put downward pressure on the credit pricing. A price ceiling might have the unintended effect of causing deliberate credit shortages to maximize the value of the credit.

In the unlikely event that CARB implements a price cap, it should not be immovably fixed. Such a cap must be able to react to current market conditions to properly function. Otherwise, reasonable, but unforeseen, future market conditions might cause the credit price to increase but for the price cap and would serve as a significant negative factor in the credit market economics.

In the further unlikely event that CARB implements a fixed price cap, Neste Oil recommends that the cap be placed at no lower than \$200/ton.

CONCLUSION

Neste Oil appreciates the opportunity to comment on the re-adoption proposals. Like California, Neste Oil is proud of its continued leadership in producing clean transportation fuel. 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@NesteOil.com if you have any questions regarding the foregoing.

Respectfully submitted,

NESTE OIL US, INC.



Dayne Delahoussaye

cc: Wes Ingram **via email**
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