

25 November 2014

California Air Resources Board
Mike Waugh
Chief, Transportation Fuels Branch
Katrina Sideco
Sent via ksideco@arb.ca.gov

Re: Response to CARB 2014-11-13 Workshop
GREET Clarification - Refinery Investment Provision - Reporting Provisions

Dear Mr. Waugh and Ms. Sideco:

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 to CARB for consideration from Neste Oil US, Inc., a Texas based company, which is a subsidiary of Neste Oil Oyj.

GREET Clarification

Neste Oil disagrees that the proposed sunset dates for pathways approved CA-GREET 1.8b are adequate. Specifically, regarding pathways certified prior to 1 December 2014, a life beyond one year after effective date of new regulation would be appropriate.

Neste Oil recommends that currently approved pathways under Method 2 remain valid without re-approval requirement under the new model. Registrants and CARB staff have spent considerable time, effort, and resources on modeling, verifying, and confirming the GHG lifecycle emission calculations. Additionally, the currently approved pathways form an integral part of the LCFS participant's business plans. 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.

In the unlikely event, that CARB requires re-application and re-approval of pathways under the new CA-GREET 2.0, then Neste Oil recommends that the existing pathways sunset after a period of no less than two years after the effective date of the regulation. As of the time of the workshop, CARB staff has not finalized and released the CA-GREET version 2.0 for use by potential registrants. Therefore, the final impact on the GHG pathway values is largely unknown. Any change in pathway value will have an impact on the LCFS participant's business plans. Most companies plan in advance. Pathway approvals have an impact on all aspects of a fuel producer's business including feedstock procurement (often with long term supply contracts), production planning and capacity (often with significant capital outlays), logistics planning (often including long term agreements for transportation and storage), and offtake

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agreements (often with term sales contracts with negotiated component for CI values). Revised business plans and agreements cannot be completed until after finalization of the re-adopted pathway.

Further, CARB staff has been, by its own admission, inundated with pathway applications and efforts to model method 1 (look up default pathway values) and has a wait time for approval that often lasts several months, if not multiple quarters, from submission of an application until notice of approval and ability to use the pathway. A new requirement to re-do all of the previously completed efforts would not only be a waste of resources, but would jeopardize the compliance path forward with currently approved low-carbon fuels in jeopardy of falling out of validation simply because of a function of staff resources.

As said before, it is important for producers and obligated parties to plan their compliance scenarios in advance of a fuel transaction. The approval of new pathway must be far enough in advance of sun-setting of the existing pathway to allow for adequate confidence of compliance and to allow for effective business planning based on the changing scenarios arising from new pathway values. A two year period would allow for review of new model, completion and approval of pathway applications using new model, and effective business planning and completion of contract negotiations based on new pathway model calculation results.

Finally, in the unlikely event that CARB adopts only a one-year sunset time period, Neste Oil recommends that CARB staff implement a firm and predictable deadline to process pathway applications under the new system whereby staff would respond with comments or approval to applications within a mandated period otherwise, the pathway and calculations described in the application would be deemed valid for compliance. This predictability would be necessary to offset the small time period and would allow for adequate and reasonable definition of parameters for planning.

As a supplement to the pathway application processes, Neste Oil reiterates its recommendation 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 and Tier 1 pathway applications, leaving Tier 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 and then be confirmed by an independent third-party verifier.

Refinery Investment Provision

The proposed definition of "Petroleum Product" under Section 95481 is inadequate. Co-processing of biomass does not yield a petroleum product - it takes eons of natural processing to make "petroleum" from biomass. Rather, co-processing of biomass yields renewable (or semi-renewable) "hydrocarbons". In order to harmonize this definition with revised

terminology developing as a result of renewable hydrocarbon products, we propose the following revised definition:

"Petroleum product" means all refined and semi-refined products that are produced at a refinery by processing crude oil and other petroleum-based feedstocks, including **hydrocarbon** products derived from co-processing biomass and petroleum feedstock together, but not including plastics or plastic products.

CREDIT RETROACTIVITY

CARB has proposed to limit credit retroactivity to a maximum of two quarters. As stated above, based on some resource challenges, application approvals are often not completed with a 6 month timeframe. LCFS participants often elect to produce low carbon fuel and deliver such fuel to California with the prospective credits in mind. CARB should only limit the availability of retroactively generated credits if there is an equal, expected deadline for approval of pathway applications.

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.

NESTE OIL US, INC.



Dayne Delahoussaye
Legal Counsel and Regulatory Affairs Manager (USA and Canada)