

From: [Jay Wintergreen](#)
To: [ARB LCFS Workshop](#)
Cc: [Luca Nencetti](#)
Subject: Comments on Proposed LCFS Verification Program
Date: Thursday, June 16, 2016 6:22:04 PM
Attachments: [image001.png](#)
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[image004.png](#)

Ms. Lai,

This email provides First Environment's comments on proposed amendments to the Low Carbon Fuel Standard as represented in the Preliminary Draft of Proposed Regulatory Amendments to the Low Carbon Fuel Standard or as presented in the June 2 workshop on the Proposed LCFS Verification Program.

1. Materiality Misstatement

During the workshop it was presented that definition of material misstatement for verification under the program was proposed as 5 percent. However this definition of material misstatement is not found in Preliminary Draft. It was also unclear if such the definition of material misstatements will be different for the carbon intensity, fuel volumes, and transactions verifications.

In addition, 95499(b)(12) of the Preliminary Draft identifies "Fuel transactions report modification. As a result of data checks by the verification team and prior to completion of a verification statement(s), the reporting party must fix all correctable errors that affect fuel transactions verifications. Failure to do so will result in an adverse verification statement."

First Environment does not support this approach to material misstatement under the LCFS.

This approach to material misstatement is inconsistent with recognized auditing best practices under which errors not defined as a material misstatement are considered immaterial and do not require re-statement. Such inconsistency with best practice introduces confusion during the verification process.

In addition, though a practice of "can fix must fix" may be workable under the mandatory reporting regulation which quantifies emissions using relatively simple equations, such an approach becomes problematic where emissions quantification methodologies are more complex, such as in the LCFS. In such situations, it may be difficult to identify the specific origin of an error or it may be difficult to determine exactly if (or how) an identified error can be corrected.

For these reasons, we encourage ARB to consider an alternative approach to the materiality misstatement definition that does not include "can fix, must fix" requirement.

2. Site visits

95499(b)(4) identifies "At least one accredited verifier in the verification team, including the fuel life cycle specialist and the fuel transactions specialist, must make at least one site visit during each calendar year."

This language seems to suggest that both the fuel life cycle specialist and the fuel transaction specialist would need to attend the site visit. First Environment believes including both specialists in the site visit could in some cases be unnecessary relative to the activities actually performed on

site. In many cases, an accredited verifier could perform the site visit and simply follow-up with specialists as needed after on site activities. We encourage ARB to identify specific conditions that would require a particular specialist to participate in a site visit.

In addition, the workshop presentation included examples (slides 18 & 19) identifying required site visits versus risk-based site visits, though the details of these different site visits do not seem to appear in the Preliminary Draft.

First Environment does not support this approach to site visits. A risk-based approach to site visits that relies on verifier judgment to determine if site visits should be performed will only result in the minimum mandatory site visits being performed as verifiers complete for engagements, since site visits are typically represent a high proportion of overall verification costs. As a result, some verifiers will always determine any situation as low risk and not perform a site visit. We encourage ARB to identify specific situations and conditions that require site visits to be performed so that the number of site visits is consistently applied between verification bodies and verifiers.

In addition, we encourage ARB to be very specific regarding where site visits should occur and why, clarifying that the inspection should take place where the most critical biofuel production or conversion activity takes place. The need for such specifics is demonstrated by the example on slide 19 (Landfill CNG) of the 6/2/16 presentation which identifies the Compressions and Refueling facility as the mandatory site visit location. In our experience the critical activities for Landfill CNG pathways take place at the biogas upgrading and pipeline injection facility. In addition, a Landfill CNG pathway project may supply biogas to a large number of CNG Compression and Refueling facilities (fuel stations), distributed over a large geographic area, making it impractical and extremely expensive to visit all of them once a year.

3. Conflict of Interest

Relative to the proposed language identified in 95501 (c)(2), we would encourage that RFS2 independent third party engineering reviewer activity conducted for the responsible party should be explicitly recognized as low risk since any RFS2 verification and third party engineering review activity requires the reviewer to declare its independence status and to assess any potential conflict of interest according to guidelines similar to 95501.

4. Monitoring plans

95499(b)(A)(3) refers to a “fuel pathway monitoring plan” and 95499(b)(6)(D)3 refers to “Monitoring plan for carbon intensity value.” In addition, slide 33 of the June 2 workshop presentation reference “Proposed Elements of CI Monitoring Plan.” We strongly encourage ARB to identify specific components and detailed information that should be identified in these monitoring plans. Without specific requirements to guide the development of the identified monitoring plans, we are concerned that such plans would add little value to the verification process and in fact potentially act as an obstacle to verification activities.

5. Accreditation

95500(a) identifies “Accreditation of verification bodies and verifiers for verifying carbon intensity or fuel transactions must be achieved separately from accreditation for verifying reports submitted under title 17, California Code of Regulations, section 95100, et.seq..” First Environment encourages ARB to propose a single accreditation process for verification bodies and verifiers under all AB32 implementation activities (i.e. mandatory GHG reporting, offsets, LCFS) since maintaining multiple program accreditation results increased costs for verification services without increasing the quality of the verification services provided.

95500(c) identifies “An ARB accredited verification body must make itself and its personnel available

for an ARB audit.” First Environment would request that ARB provide specific information about the verification body audit referenced in this section, including but not limited to the audit objectives, criteria, process, communications, etc.

6. Grandfathered MRR verification bodies

First Environment supports ARB’s proposal to grandfather MRR verification bodies into the LCFS verification program as presented during the June 2 workshop and encourages ARB to clarify language in the proposed regulation amendments regarding MRR verification bodies grandfathering.

Thank you for the opportunity to provide these comments. Please do not hesitate to contact us if you have questions regarding these comments or if discussion would be helpful.

We look forward to the next steps of the LCFS Verification Program development process.

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