Conestoga
energy partners, LLC

§95488 Obtaining and Using Fuel Pathways

1. We understand that ARB proposes a requirement that all Fuel Pathway Applicants develop, submit, and utilize a Monitoring Plan. ARB has indicated that the purpose of the this document is to describe operating conditions by detailing current process flow diagrams, facility instrumentation used to monitor fuel production, and methods for measurement, calculation, and monitoring of CI. The monitoring plan will also provide a reference to be used by verifiers when conducting annual verifications. We also understand that verifiers will use this document to determine is CI for a given verification period is under or over the reported value. If the calculated CI exceeds the reported CI than the use the FPC may be limited.

We suggest that ARB:

- Release a template for the Monitoring Plan that is complete with headings and subheadings in order to provide applicants with a standard format within which to develop their individual Monitoring Plans. Standardizing the format of the Monitoring Plan will benefit both ARB staff and verifiers in terms of ease of use, efficiency of review, and tracking of insufficiencies.
- Define the terms under which the use of the Fuel Pathway may be limited if verifier's CI calculations do not match with the Fuel Pathway Holder's reported CI values. We recommend that ARB allow for a reasonable level of deviation in CI value in recognition of the fact that normal operations vary year-over-year (e.g. process fuel consumption may vary by less than 5% due warmer/cooler temperatures, plant operational improvements, etc.). Verbiage can be added to the regulation establishing maximum levels of permissible uncertainty based on CI value. The lower the CI the smaller the permissible range of deviation. For example, for CIs 60 gCO_2e/MJ and above the acceptable level of uncertainty is 5% of CI. For Cis less than 60 gCO_2e/MJ, the acceptable level of uncertainty is 3% of CI.

2. We understand that ARB proposes a requirement that all new Fuel Pathways undergo a validation process using a third party verifier prior to submittal.

We suggest that ARB:

- Establish validation guidelines to inform verifier's approach to validation.
- Define what constitutes "High Risk Pathway Contributors." Does High Risk refer to any process along the fuel value chain that represents a certain percentage total CI?
- Please provide stakeholders with cost and time estimates associated with completing the validation step by polling a significant sample of engaged verification bodies.

§95491 Reporting and Recordkeeping

1. We understand that ARB proposes additional reporting requirements for "high risk pathway contributors" including feedstock, co-product, and finished fuel traceability requirements.

We suggest that ARB:

- Further define feedstock, co-product, and finished fuel traceability requirements in the regulation. Note this is addition to further defining what is constituted by "high risk pathway contributors".

- If the reporting requirements include providing purchase receipts, invoices, etc., then we suggest the regulation require that fuel pathway holders provide a representative sub-sample of receipts/invoices as these documents often number in the thousands for a 12-month period and the aggregation and electronic transfer will be costly in terms of time.

§95498 Requirements for Verification of Fuel Pathway Carbon Intensity and Fuel Volumes

1. We understand that ARB is currently considering three options for verification of fuel production and transactions. We are concerned about the ramifications of credit issuance delays, verifiers' capacity for the volume of forecasted verification work, and redundancy associated with quarterly and annual verification requirements for both fuel producers and reporting parties.

We suggest that ARB consider:

Implementing a slightly modified first alternate proposal where verification occurs once per year with the fuel producer. The quarterly verification criteria as outlined in Section 95498(b)(1)(A) that includes LRT-CBTS transactions verification and FTM demonstration and the annual verification criteria as outlined in Section95498(b)(2)(A) that includes CI and production volume verification would be covered in the annual verification. We do not see the benefit of conducting five total verifications per fuel pathway per calendar year. For illustrative purposes, there are currently more 180 certified fuel pathways. Per the terms of the current proposed terms of the first alternate

verification schedule, this amounts to 720 quarterly verifications and 180 annual verifications; a total of 900 verifications. It is useful to compare the proposed situation to ARB's Cap and Trade program where annual verifications are required for all offset projects. Currently there are 14 accredited verification bodies that perform an estimated 210 verifications per year. This amounts to 15 verifications per year per verification body. It is highly likely that these same 14 verification bodies will seek accreditation under LCFS. On top of the 15 verifications that they conduct for Cap and Trade they will then be attempting to perform another 64 individual verifications per year for LCFS (e.g. 720 + 180 = 900. 900/14 = 64). The sheer of amount of work associated with the verification requirements as proposed under the first alternate option is astronomical and will lead to massive delays due to finding available verification bodies, the lack of capacity to complete the verification work once the verification is body is contracted, and the natural progression of verification work which always entails back-and-forth between the verifier and the entity being verified.

We understand that eliminating the quarterly verifications as proposed removes the ability to crosscheck transactions and ensure against credit misalignment. As a solution, we recommend that ARB implement the assignment of UIDs to every credit generated and require that counterparties include UID information in their contract paperwork for every transaction. The "push-n-pull" type mechanism of reporting under this approach as described during the July 29, 2016 also prevents misalignment. We recommend that ARB implement standardized reporting mechanisms such as these versus requiring 900 individual verifications per year.

2. We understand that ARB proposes verifications be conducted based on calendar year deadlines. Per our concern about verifier availability and capacity issues, we feel that an alternate schedule would help alleviate these issues.

We suggest that ARB consider:

Requiring that verifications be conducted each 12 months per fuel pathway with all verification documents (i.e. verification report, statement, attestations) submitted no later than 6 months from the end of a 12 month cycle.

3. We understand that ARB will provide guidance for verification bodies or other parties seeking accreditation regarding how verification work should be conducted.

We suggest that ARB consider:

- Developing a detailed verification checklist or verification guide that verifiers are required to follow to satisfy the criteria as outlined in the regulation.
- Allowing for a reasonable level of deviation in CI value in recognition of the fact that normal operations vary year-over-year (e.g. process fuel consumption may vary by less than 5% due warmer/cooler temperatures, plant operational improvements, etc.). Verbiage can be added to the regulation establishing maximum levels of permissible uncertainty based on CI value. The lower the CI the smaller the permissible range of deviation to ensure stringency.

For example, for CIs 60 gCO_2e/MJ and above the acceptable level of uncertainty is 5% of CI. For CIs less than 60 gCO_2e/MJ, the acceptable level of uncertainty is 3% of CI.

- A mechanism for fuel pathway holders to request approval from ARB for situations where the verifier finds that conformance to regulations is less than 100% perfect but does not affect CI calculations more than the maximum allowable range of uncertainty per the point above. For example, a scale measuring intake of feedstock is found to be out of calibration for a month. The issue is identified, the scale is recalibrated, and an estimation of the miscalculation shows that the CI was not affected by more than 1% (i.e. a factor is applied to arithmetically correct for the time during which the scale was reading incorrectly). If the allowable range of uncertainty is 5% for the affected pathway then the miscalibration does not affect CI integrity. ARB would approve the petition to allow for the error in calibration and the verifier would issue a positive verification statement for the period.

Other Credit Invalidation

Credit invalidation is a very serious matter and ARB should take measures to ensure that the system is designed to prevent it. However should a verification identify misalignment, errors in CI calculation, etc. then there needs to be a mechanism whereby those credits deemed invalid.

We suggest that ARB consider:

Implementing a system whereby liability associated with the invalidation of credit is shared among the fuel producer and the verification body that performs the verification work. If the invalidation is due to errors in CI calculation or failure to comply with monitoring or record keeping requirements and is not identified at the time of verification then the verifier is liable. If the invalidation is found to be the result of intentional negligence on the part of the fuel producer than the producer is liable. Ultimately, the invalidated credits should be removed from the system and the liable party should be held responsible for addressing their replacement.

Warmest Regards,

Tom Willis

Tom Willis, CEO
Conestoga Energy Partners, LLC
1701 N Kansas Ave
Liberal KS 67901