

From: Guillemette, Philip E. [Philip.Guillemette@fhr.com]
Sent: Monday, June 15, 2015 4:01 PM
To: Chowdhury, Hafizur@ARB
Cc: Hardy, Rita; Smading, Dan
Subject: ARB Proposed Regulation 95488(d)(2) Provisional Pathways - Question

Hello Hafizur,

Per my telephone message, I would like to gain a better understanding of how the proposed LCFS regulations would apply to a newly constructed biodiesel plant.

Duonix Beatrice is constructing a biodiesel facility that will start-up later this year. Duonix Beatrice plans to sell its biodiesel to Flint Hills Resources, who may import the biodiesel into California for sale or blend with purchased CARB diesel for sale in California. On behalf of Duonix Beatrice, we have submitted a pathway application under the existing LCFS regulations and expect to have at least three months of operation prior to the end of 2016. Our consultant, EcoEngineers, has been working with Todd Dooley on the application.

If I understand correctly, the soon to be approved proposed regulations will require us to submit another pathway application before 1/1/2016, and since Duonix Beatrice will not have achieved full commercial production for 2 years, it appears that the provisional pathway regulations would apply.

My key question is related to the restrictions related to provisional credits. The proposed rules state that provisional credits may not be sold, transferred, or retired for compliance, nor may fuel with a provisional CI be transferred with obligation, until the Executive Officer has adjusted the CI or informed the producer that the provisional CI has been successfully corroborated by operational records covering a full two years of commercial operation.

If my understanding is correct, it appears that Flint Hills Resources will be unable to sell biodiesel with obligation, or sell, transfer or retire credits from CARB diesel blending, until after two years of operation. This restriction seems inconsistent with the current process, whereby ARB has the discretion to allow facilities to obtain fuel pathway approvals prior to start-up, sell biofuels with obligation after start-up, as well as sell, transfer or retire credits from fuel blending, so long as quarterly data is provided to ARB continuing to support the approved fuel pathway carbon intensity.

Please give me a telephone call, when you get a chance. I am hoping that I am missing something or am not understanding the proposed regulations correctly.

Thank you for your help,
Philip

Philip Guillemette
Flint Hills Resources, LP
Telephone: 316-828-8440
Fax: 316-828-4905