



Nick Economides
Manager, State Fuels
Regulations

**Strategy, Planning &
Technology**
Chevron Products Company
6001 Bollinger Canyon Road,
San Ramon, CA 94583-2324
Tel 925 842 5054
Nick.Economides@Chevron.com

October 10, 2017

[Submitted Electronically]

Mr. Samuel Wade, Chief
Transportation Fuels Branch
California Air Resources Board
1001 I Street
Sacramento, CA 95814

Re: California LCFS Revisions–Comments on Proposed Regulatory Amendments from September 22, 2017 Workshop

Dear Mr. Wade:

Chevron appreciates the opportunity to review and comment on the referenced LCFS workshop. Chevron is a major refiner and marketer of petroleum products in California. The proposed revisions directly and indirectly affect Chevron's compliance requirements under the Low Carbon Fuel Standard (LCFS), which in turn impacts our transportation fuel business and customers. Chevron is a member of the Western States Petroleum Association (WSPA). We support and incorporate by reference the joint comments submitted by WSPA in response to this workshop.

Chevron is pleased the California Air Resources Board (ARB) is preparing to implement improvements in several provisions of LCFS regulation. We believe it is appropriate for ARB to evaluate every possible avenue for attaining the state's environmental objectives and we are looking forward to continuing our work with staff to ensure the regulation amendments are practical, cost-effective and do not impose unreasonable compliance burdens on regulated parties. Our detailed comments can be found below, following the numbering sequence of the slides presented by staff on September 22:

Rulemaking Process

In general, several major areas incorporated in this rulemaking are either missing (e.g. CCS), currently being worked on in terms of staff seeking input and working with industry to revise (e.g., Refinery Investment Credit), or brand new in terms of having been introduced during the September 22 workshop (e.g., compliance curve, buffer account, etc.). It remains challenging to review and provide substantive comments on several of the topics outlined in the time allotted. While we appreciate staff's flexibility to accept comments beyond the stated October 6 deadline, we believe additional discussion is warranted once staff has received feedback on several of these topics. To this end, we urge staff to convene another workshop in late October or early November (i.e., before staff issues its draft final LCFS amendments package).

We also recommend that staff build regularly recurring program review requirements into the current package of amendments, similar to the ones that have been part of the existing regulation. We recommend that these reviews follow the three-year regulation amendment cycle implemented with the program's readoption in 2015. However, we recommend some changes to have these reviews better serve the purpose of evaluating program health and sustainability. First, the recommended three-year cycle should be accelerated if the end-of-year Credit Compliance Market process is triggered two years in a row. Second, the scope of the program review should explicitly include staff's best projection of compliance outlook between that point in time and the last year included in the program (i.e., 2030 in the currently proposed amendments).

Fuels Subject to the Regulation

Chevron supports the addition of alternative jet fuel to the program, However, it seems impractical to have the initial reporting entity for the alternative jet fuel component be the producer (or importer) of the fuel that is "uploaded to aircraft in California." This implies jet fuel needs to be tracked all the way into the airplane and we do not see any justification for this degree of complexity. Instead, we recommend that jet fuel only needs to be tracked to airport jet fuel storage tanks (regardless of whether it is transported there by pipeline, rail or truck), as long as its alternative content can be established and tracked from the point of production to the airport storage tank. It is safe to assume, in our opinion, that fuel that has arrived at the airport will ultimately be loaded into aircraft at that airport and is unlikely to be exported outside California. By extension, airport arrival date should be the criterion for determining what quarterly report a particular jet fuel shipment should appear in.

The addition of fossil propane as a default regulated fuel is unnecessary. Propane represents a very small segment of the transportation fuel market and its inclusion would not have a material effect on the goals of the LCFS. This change simply makes an already complicated program more complicated and adds a new population of regulated parties who must now adapt their business models to address the cost and administrative burden of a new LCFS obligation. We do support awarding credits to renewable propane as recognition of its lower CI, but feel that limiting the new entries to the program to those who choose to introduce renewable propane and generate credits would be far less disruptive to the market.

If ARB does decide to include fossil propane in the LCFS, the point of obligation for the fossil propane proposed in § 95483(h) is appropriate. Propane has multiple potential destinations when sold by the initial producer. The owner of the propane fueling equipment will be best able to determine what volume is used for transportation. The renewable portion could easily, and perhaps more appropriately, have the same point of obligation, but we have no specific objection to its beginning with the producer or importer.

LCFS Data Management Systems

The proposed updates to the LCFS data management systems to incorporate verification procedures is appreciated. Having registration, reporting, reconciliation, and verification all in one place will help to ensure the stability and consistency of compliance data. That said, we urge ARB to take great care in protecting data privacy. As with the Cal-eGGRT system for MRR reporting, we particularly want to be sure that verifier access is limited to the reporting data for the regulated party and compliance year explicitly indicated by that regulated party.

In 2016, ARB proposed "Know Your Customer" rules, requiring that LRT-CBTS users submit personal, private information for identity verification purposes. Based on the proposed regulatory amendments, it appears that ARB has decided not to pursue such requirements. We support this decision and continue to

object to any requirement that our employees' personal and confidential information be required to be submitted to ARB.

Average Carbon Intensity Requirements

We appreciate staff's initial thinking on the shape of the compliance curve for 2021-2030 offered for the first time at the September 22 workshop. We are continuing our evaluation of its feasibility and sustainability, implications on credit bank drawdown and we hope to have some specific feedback on year-to-year targets by the time the previously requested additional workshop is held in late October or early November. Some initial thoughts are as follows:

Staff should not limit their review and consideration of targets to the 2021 to 2030 time frame; rather, the entire time frame from 2018 to 2030 should be within the scope of redefining the LCFS compliance curve in these regulation amendments, particularly since the 2019 program review envisioned in the current regulation is effectively pre-empted and replaced by the anticipated 2018 rulemaking.

Staff should consider reducing the slope of the 2018-2020 front-end segment of the compliance curve to reduce the drawdown of the credit bank during those years and allow for a softer landing into the early 2020s when compliance without a long-term credit bank reserve will be necessary.

Recognizing that the previous recommendation will likely necessitate changes to the shape of the compliance curve in the 2028-2030 time frame, we urge staff to consider a more "back-end loaded" schedule for this period, similar in its upward trending curve slope for in the current regulatory targets period of 2018 through 2020.

Generating and Calculating Credits

Changes have been proposed to § 95486(a)(2) that explicitly prohibit the correction of credits or deficits for activity reported after a quarterly deadline has passed, if it benefits the regulated party. The corrections are applied to a regulated parties account, however, if they are detrimental to the regulated party (e.g., resulting in increases in deficits or decreases in credits). Previously, ARB has asserted that earlier versions of the regulations addressing report corrections either contain implicit authority to deny beneficial corrections, or apply an express authority retroactively. Whether ARB asserts an implicit, explicit or retroactive regulatory authority for such actions, it is clear that there is no statutory authority or direction given to ARB to pursue this **extraordinary** practice. And this practice is extraordinary with very real monetary impacts to the regulated party. ARB's claim that it has a mandate to deny a regulated party the value of the correction (for instance, credits that it purchased to meet its compliance obligation), without any exercise of discretion, consideration of facts, or opportunity for the regulatory party to present mitigating circumstances is offensive to anyone's expectation of **due process**. This practice also has the effect of imposing a punitive penalty on the regulated party without any finding of misconduct while bypassing the procedural obligations of ARB's Penalty Policy. It is also impossible to reconcile this practice with the inherent expectations of good governance; that ARB administer the LCFS program with accuracy, transparency and impartial fairness. We do not believe this practice is legally tenable or rational and we object to the inclusion of this new language. While we are in agreement that regulated parties must make a good faith effort to submit timely and accurate compliance reports, there is no reasonable basis for prohibiting regulated parties from making corrections that improve their compliance position. The absence of a reasoned basis, the lack of statutory authority, the affront to the tenets of due process, and the avoidance of the ARB Penalty Policy, renders this proposal and practice **arbitrary and capricious**. Further, ARB has ample existing authority to enforce the regulatory reporting requirements and impose appropriate civil penalties for reporting violations that will deter future violations. Penalizing

regulated parties and withholding credits related to routine transaction corrections or unintentional oversights is unnecessary and only serves to discourage regulated parties from alerting ARB to such issues.

Buffer Account

ARB proposes to establish a Buffer Account in the agency's custody, to be used as a backstop for keeping the LCFS program whole in the event that invalidated LCFS credits cannot be replaced by the party at fault for the invalidation. While we appreciate that this may be an attempt to protect against buyer liability from the invalidation of such credits, Chevron objects to ARB's plan for populating such an account. As stated above, there is no rational or legal basis for the withholding of credits for legitimate report corrections, and therefore, such credits are not appropriate as a source for Buffer Account credits.

We also object to ARB's proposal to take a percentage of credits associated with CCS projects for use in the Buffer Account. CCS projects represent real GHG emission reductions which benefit the LCFS program as much as alternative fuels or other credit generating projects and merit equal treatment. CCS projects should be subject to verification, but should not be subject to an arbitrary appropriation of credits from the project owner. This will only serve to reduce the value of such projects, and therefore, discourage investment.

If ARB decides to establish a Buffer Account as an insurance policy to protect regulated parties from credit invalidation, then the mechanics of such an account must be fair, even, and consistent for all regulated parties. ARB has not demonstrated (or presented any basis) that CCS projects present greater risk than other credit-generating mechanisms. Taking credits primarily from CCS project owners to protect against fraud or significant error on the part of other participants in the program is, therefore, a biased and inequitable approach. We suggest instead that ARB evaluate the potential impact of taking a small percentage of all credits generated and holding them in the Buffer Account, with the balance not to exceed 1% of the entire program at the end of a given compliance year.

We have no objection to the proposal to move net credits from deactivated accounts to the Buffer Account, assuming there is no regulated party with a claim to such credits (e.g. a company that acquired the previous regulated party and its assets).

Updated EERs

ARB has proposed an updated EER for heavy duty electric vehicles of 5.0. This is much higher than the previous rates (2.7 for HD EV truck and 4.2 for HD EV bus). The proposed update is based on key assumptions that (1) most or all of those electric HDV are operated at low speed (and thus low engine efficiency), and (2) the baseline engine technology is relatively old (e.g., 2007-2010 engines for UCR test) and no engine improvements or hybrids are assumed for baseline engine technology. To more accurately reflect the HDV EV fleet, we suggest that the regulation only apply the proposed high EER to low-speed HDV EV applications, and set lower EERs for others (e.g., long-haul high-speed HDV). Further, ARB should update baseline HDV assumptions to reflect current engine technology, and consider including future improvements and hybrids for apples to apples comparison.

Reconciliation

As with other types of prior-quarter corrections, Chevron objects to ARB's proposal to leave credits and deficits associated with unreconciled transactions permanently in the seller's account. We recognize our responsibility to work with trading partners to ensure that purchases and sales reported in the LRT-CBTS

are reconciled, but do not believe that these transactions should essentially be cancelled in the event that one party does not report or does not accurately report their side of the transaction. If Chevron purchases low-CI fuel from a seller who neglects to report the sale of that fuel in the LRT-CBTS, Chevron still has a legal right to the credits associated with that fuel. It would be inappropriate for ARB to withhold them. ARB should absolutely have a process for investigating unreconciled transactions, reversing any transactions reported incorrectly, and taking appropriate action when activity is not reported. However, if a reporting party can demonstrate that what they reported is accurate, they should not be penalized.

We would support a reasonable procedure included in the regulations to contract with a verification auditor to demonstrate the accuracy of reported transactions that do not reconcile with those reported by a trading partner. Given the significant reduction in reconciliation differences, we agree that full verification of purchase and sale activity is unnecessary, but we believe verification auditors could be employed to resolve disputes over unreconciled transactions, thereby relieving ARB of the administrative burden, but without penalizing those who report accurate data in good faith.

Exchange Clearing Services

Chevron would like to see better definition of the potential inclusion of “Exchange Clearing Services” in LCFS credit trading. The ownership of credits should remain limited to regulated parties under the LCFS. Facilitators or third parties should be allowed to act on behalf of regulated parties to execute trades, but not to own credits. Allowing for a third party to hold/own credits will result in market volatility – such as that experienced in the Federal RFS RIN market. Traders in credits with no deficit obligation to satisfy and no capital investment behind the generation of credits will have every incentive to drive credit prices up and no incentive to reinvest revenues in programs to increase the use of lower CI fuels. There could be a benefit to allowing a third party or facilitator to transact deals on behalf of a regulated party - but again with the prohibition on the direct purchasing and reselling of credits.

Fuel Pathway Updates

We support staff’s proposal to expedite most look-up table pathway applications. We also believe that the development of a simplified CI calculator for Tier 1 Pathways is a major streamlining improvement since this is expected to be less complex than the CA_GREET Tier 1 model it will replace. We will await the release of staff’s manual(s) on CI calculator use to comment on potential improvements to make it as “user-friendly” as possible.

We also support the consolidation of Tier 2 Pathways as outlined by staff and are pleased to see that supporting documents such as invoices or meter records will need to be uploaded only upon request. We are in favor of the three-step process envisioned to progress from Design-Based pathway to Provisional pathway (after three months of commercial data is available) to Permanent pathway after two years of operation. We are particularly encouraged that the time necessary for staff to review and approve a provisional pathway application will be shortened if the applicant has gone through the Design-Based pathway process, effectively familiarizing staff with their project particulars. However, we are unclear what criteria the Executive Officer may apply in choosing whether to review and approve a CI value under the Design-Based initial phase. We are concerned that a narrow interpretation of what constitutes an “innovative fuel technology” could limit the application of this initial step in the newly developed Tier 2 pathway progression and urge staff to clarify their thinking on why this may not be available to all Tier 2 pathway applicants.

We continue to urge staff to reconsider what we perceive to be an imbalanced treatment of potential discrepancies between Provisional CI values (obtained after 3 months of operation) versus Permanent CI

values (obtained at the end of 24 months of operation). Staff's position that if the actual CI data indicate a value higher than the originally certified CI, credits will be subject to retroactive adjustment for the entire period from initial validation to the post 24-month verification. We understand the rationale applied in this "true-up" guidance and hope that data verification during the provisional CI period will identify the need for CI adjustment to eliminate the potential for large discrepancies. However, we think corresponding terms should apply if the CI established with actual operating data at the end of the 24-month period is lower than the originally certified CI, in other words, retroactive credit adjustment should take place regardless of whether the CI is higher or lower than the originally certified value.

Following a similar rationale, we urge staff to reconsider its proposed response to potential discrepancies between the certified CI value and the CI verified by independent auditors following annual review of the previous two years of operational data. Once again, staff appear to favor uneven treatment depending on whether the actual CI is high or low versus the certified value. A higher CI would subject the pathway holder to retroactive credit adjustment (make up the credits) and possible enforcement action. However, a lower CI would not entail retroactive credit adjustment; rather the pathway holder would merely have the option to adjust their CI value going forward.

The requirement for a fuel pathway applicant using low CI feedstocks (e.g., used cooking oil) to maintain chain of custody records all the way to the point of origin is unworkable and needs to be revised to preserve the viability of such pathways contributing to meeting the targets of LCFS. From a practical standpoint, we urge staff to limit the need for establishing the origin for such feedstocks to the point of "first aggregation" since many of these feedstocks are sourced from aggregators who collect relatively small volumes from a large number of individual restaurants, fast-food establishments, etc. If additional validation/verification of volumes and sources reported by such aggregators needs to take place to ensure staff that the data is accurate, staff should consider certifying such first aggregator facilities. Users of these feedstocks (whether they are processed in a biodiesel, renewable diesel or refinery coprocessing scheme) are practically unable to track them beyond the point of initial aggregation.

As far as the process and timetable for updating pathways from CA-GRET2.0 to CA-GREET-3.0 is concerned, one year (i.e., 2019) would seem adequate for fuel pathway holders to implement the conversion except that the availability of external validation resources (required for new CAGEET-3.0 applications filed in 2019) is unclear at this time.

Innovative Crude Production

We recommend reducing minimum thresholds for innovative crude and refinery projects, to enable solar projects, which generally can't meet the current high thresholds, to qualify.

For solar and wind electricity projects, § 95489(c)(1)(A) indicates that electricity from such projects "must be produced and consumed onsite" in order to qualify for credits. We recommend avoiding behind-the-meter-only artificial limits and to consider solar and wind electricity production flexibility at crude production sites. Doing so would allow the size of the facilities to be optimized by permitting tie-ins to be made "above the local utility's electricity meter" at the subject facilities. This should enable the input of excess electricity produced during peak hours back into the grid to offset electricity drawn by the facility from the grid when no solar generation takes place. As long as PUC and local utility frameworks are followed, net metering should be considered as a method to maximize solar deployment, efficiency, and reliability. Net metering follows the precedent of EV charging's indirect pathways, which can become a very large grid load vs offsite refinery & crude LCFS projects. Furthermore, the LCFS regulation is based on energy accounting so overall solar MWh vs grid average electricity are what matters, as long as MT of CO₂ avoided is not double counted. We believe effective segregation of RPS

vs. LCFS can be accomplished without limiting innovative electricity projects to tie in after the crude production facility's meter.

We recommend eliminating the offsite restriction – a good precedent is ARB's practice in renewable natural gas pathways where environmental attributes of landfill gas injected into the pipeline grid can be transferred to any end user, as long as no double-counting occurs. This will enable electricity to have an even greater beneficial role in the LCFS while enabling facilities to be most appropriately sited.

For solar steam productions, Chevron appreciates ARB's addition of two new ranges for solar steam quality at 85% - <95% and 95% and above. This will result in more accurately representing enthalpy and emissions per barrel for some thermally enhanced oil recovery operations.

The recordkeeping and reporting requirements in § 95489(c)(4) mention specific requirements for solar steam and solar and wind electricity projects. There do not appear to be any specific requirements for CCS or solar heat projects. If ARB expects certain details to be reported for such projects, we would like to see them detailed in the regulations.

Also, § 95489 appears to skip from (c) to (e).

Renewable Hydrogen Refinery Credits

We agree with staff's new approach for calculation of benefits associated with Refinery Renewable Hydrogen production. Focusing on the CI difference between renewable and fossil-based feedstock to the refinery hydrogen plants is a significant simplification compared to the alternative of carrying the renewable hydrogen component through the complicated series of refinery process units all the way to the finished products.

We will continue to work with staff through WSPA in developing simplified, practical calculation methodology guidelines for projects that improve refinery energy efficiency. We recommend that staff's review focus narrowly on the particular segment of the refinery that the proposed project will impact and ensure that a project-by-project assessment takes place on the methods that will be used to ensure that the project benefits are verifiable and can be reported by the independent auditors as part of their annual audit.

Other recommended improvements to the Refinery Investment Credit Provision include:

- Shift to startup date for project eligibility
- Allow lower threshold for projects to qualify based on GHG impact
- Simplify credit calculation methodology associated with RIC projects
- Eliminate capital versus expense considerations in determining eligibility
- Remove cap on number of credits that can be generated from this provision
- Remove restriction on trading credits generated through this provision
- Remove the need to have end of year verification of the credits generated through RIC before they are added to our bank.

We appreciate staff's clarification of the renewable hydrogen credit formula in § 95489(g)(2)(A) during the September 22 workshop. As explained, it appears that the proration factor included in the formula is intended to apply credits to the portion of total gasoline and diesel that is produced for use in California. This is not clear from the definitions, as written, for Volume^{XD} and Volume^{Total}.

That said, we do not feel that this proration is a necessary or useful limitation on the generation of credits for renewable hydrogen. The purpose of consuming renewable hydrogen is to displace fossil hydrogen and reduce the CI of the fuel being produced. Given that the LCFS is the driver for this substitution, ARB should allow the full volume of renewable hydrogen used to generate credits. Forcing an allocation between in-state and out-of-state fuel will only serve to reduce the value of investing in these projects and limit the GHG reduction achieved.

Fuel Exports

Chevron appreciates the added regulatory text in § 95483 detailing the effect of fuel exports on LCFS compliance and the responsible parties for reporting such exports. The parties indicated for both above- and below-the-rack transactions are appropriate and represent those best able to know and report the fuel's ultimate destination.

In § 95491(d)(1)(B), ARB includes language related to assumed levels to be used for blended fuels exported where the exact blend percentage is not known. However, this language only indicates that default percentages would be published by ARB based on prior-year averages. In previous working sessions, ARB indicated that diesel blends below 5% in such cases would be assumed to be neat diesel for reporting purposes and that the default percentages would be applicable to blends exceeding 5%. We would appreciate seeing this added to the regulatory language in order to provide more clarity and certainty.

ARB staff have also indicated previously that guidance would be issued on this matter prior to these regulatory amendments taking effect. Is that guidance still planned or will the changes take effect with the adoption of the amendments? If interim guidance is intended, regulated parties will need sufficient advance notice prior to its taking effect. We expect these changes will require updates to numerous contracts and such changes take time. At this point, if guidance is expected by the end of 2017, we propose a July 1, 2018 effective date to allow regulated parties to update contracts and business processes.

Book-and-Claim Accounting

ARB has proposed a two-quarter time limit for reporting biomethane injected into common carrier pipeline in North America as dispensed bio-CNG, bio-LNG, or bio-L-CNG in California. We believe this is a reasonable limitation. If a delay in pathway approval causes a delay in in claims across quarters, however, we would appreciate ARB exercising some flexibility on this matter.

Verification

Chevron objects to the proposed MCON verification deadline. It is extremely aggressive and leaves little time for a verification auditor to perform a thorough review. ARB should consider the likelihood of material errors that may affect crude CI calculations in deciding when to set this deadline. Reported data should be presumed correct and the verification as an after-the-fact confirmation. A rushed verification schedule has a greater chance of affecting the accuracy of reported data than catching significant potential misstatements. ARB should also consider the fact that crude consumption reporting is based on inventory data which drives financial reporting. It is therefore already subject to financial audit requirements, which significantly mitigates the risk of error. The verification deadline should come at least two months after the reporting deadline to allow regulated parties to focus on preparing accurate reports.

On slide 53, ARB proposes less frequent verifications for facilities generating 6,000 credits or fewer per year. As ARB staff progresses on finalizing this proposal, it would be helpful to understand how many

regulated parties would qualify for this threshold. The threshold seems very low and ARB should consider whether it should be higher.

We do not understand the rationale behind withholding credits for projects, as discussed in § 95500(e)(3). All other credit-generating activities are awarded credits as soon as they are reported. We do not believe that credit-generating projects present an appreciably higher risk of error than other activities. The treatment of project-generated credits should be the same as any others.

The discussion of correctable errors in § 95500(h)(1) should include a threshold for requiring corrections. Our experience with MRR verifications, where such corrections are required with no thresholds, is that verifiers feel they must see any error corrected, no matter how small. This results in reports having to be resubmitted for the smallest of errors, which is a needless waste of the time and resources of regulated parties, verifiers, and ARB. We suggest that corrections be required only if the error discovered results in a five (5) metric ton CO₂e impact on the regulated party's credit/deficit balance.

ARB proposes to selectively audit verifiers as they do under MRR regulations. Chevron appreciates this approach and believes ARB should have a direct view into the activity audited and will benefit from closer insights into the activity being reported. However, our experience with MRR audits has been that ARB staff often end up essentially directing the verification itself by giving the verifier instructions on what to review. This approach limits the value of ARB's assessment of the abilities of the verifier. The ARB audit should be "hands off" so that ARB staff can get a fair assessment of the verifier's performance. In fact, during the update of ARB's Enforcement Policy, ARB staff reiterated that ARB should not be involved in the verification of a facility to ensure a true independent third-party review.

We have concerns about the lead verifier qualifications discussed on slides 70-71, particularly the separate requirements for acting as lead verifier on Fuel Pathway Reports and Crude Oil and Project Reports. It may be challenging to find firms with lead verifiers who have both "experience in alternative fuel production technology" and accreditation as an oil and gas systems specialist. This could result in regulated parties having to hire multiple firms to conduct one year's verification, or there being an overall shortage of verifiers. We would like to see greater flexibility in the qualification standards.

§ 95501(b)(1)(A)(2) requires verifiers to review organization charts and details about personnel involved in the preparation of a fuel pathway application. This seems excessive. If a pathway application is properly prepared and accurate, it is not necessary for a verifier to express an opinion separately on the qualifications of the individuals involved in its preparation. It is unclear what value this adds to the verification.

§ 95501(c)(4) includes a requirement that a verifier notify both the responsible entity and ARB of the potential for a adverse validation or verification statement prior to issuing such a statement. Our experience with MRR verifications is that such notifications can occur due to error or misunderstanding on the part of the verifier rather than an actual material misstatement or nonconformance. This results in ARB being involved in the verification process prematurely and can cause confusion. We suggest that the responsible entity be given an opportunity to discuss the validity of the potential issue with the verifier prior to notification of ARB.

The Conflict of Interest rules under § 95503(b)(2) appear to sufficiently allow for auditors performing MRR verification, QAP audits, or EPA Part 80 attestation audits for a regulated party to also provide LCFS verification services. This is critical to ensuring a sufficient number of verification auditors are available to regulated parties. We generally support these rules as written.

Slide 51 refers to an annual verification of two calendar years of operational data for fuel pathway reports. We do not see a reference to this in § 95500 or § 95501.

§ 95500(e)(2)(A) makes reference to § 95500(d)(2)(B). We believe this should refer to § 95500(e)(2)(B).

Additional Topics Not Covered by the Presentation

Product Transfer Documents

In several places in § 95483, ARB has inserted the words “at the time of transfer” prior to the requirement to provide a product transfer document to a product recipient. That would require that a product transfer document be issued immediately when the title to the physical product changes hands. This was a requirement in the earliest version of the LCFS and was very challenging. It was later removed and ARB staff have advised regulated parties over the years that a single product transfer document can be prepared to represent multiple product transfers, even as far as summarizing a full quarter’s activity. Some regulated parties have established such processes, which simplifies their compliance burden as well as communications between trading partners. This change would reverse that progress. The existing flexibility became especially important in 2015, when ARB changed the definition of “product transfer document” to be a single document containing all of the required information rather than a set of commercial documents that, collectively, provide the information. This is extremely difficult to do at time of delivery, making a consolidated document, prepared later, an effective and practical solution. We recommend striking the added language.

Record Retention

ARB is proposing to extend the record retention requirement for the LCFS from five years to ten. We urge ARB to reconsider this proposal. This change would set the LCFS apart from most, if not all, regulatory programs affecting the fuel industry and represents an unnecessary cost and administrative burden. We fail to see any programmatic or environmental benefit that would justify this change.

Also, in § 95491.1(a)(1)(D), ARB has added a requirement to retain “Records used for each credit transaction.” First, the proposal is overly broad as it does not identify the kinds of information that ARB seeks to preserve. Second, the proposal is confusing given that the transaction itself occurs entirely within the LRT-CBTS, including both the offer and acceptance of delivery. There are no product transfer documents memorializing the credit transactions beyond the transfer agreement generated by the LRT-CBTS. Consequently, we fail to see what further records related to these transactions would demonstrate compliance with the LCFS.

Thank you for the opportunity to comment on these matters. If you have any questions regarding our comments, please contact Nick Economides (Nick.Economides@chevron.com; 925-842-5054) or Don Gilstrap (DGilstrap@chevron.com; 925-842-8903).

Sincerely,

Nick Economides