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Christina Zhang-Tillman
Air Resources Board
1001 I Street
Sacramento, CA 95814

RE: Comments on the October, 2008 draft of The California Low Carbon Fuel Standard (LCFS) Regulations

On the behalf of Chevron, I am pleased to provide comments on the October, 2008 draft of The California Low Carbon Fuel Standard (LCFS) regulations. Chevron is very concerned about ARB's proposal on regulated parties contained in section 95423. ARB's proposal establishes that the responsibility for compliance with the LCFS for gasoline and diesel blends transfers with the product when title is transferred. This proposal suffers from four serious flaws:

- 1. It unnecessarily complicates both compliance and enforcement.**
- 2. It is inconsistent with the Federal RFS and California RFG programs.**
- 3. It is backward focused, rather than forward looking.**
- 4. It shifts the compliance obligation away from the parties that produce or import conventional fuels.**

Unnecessarily Complicates Compliance and Enforcement: The ARB proposal moves compliance responsibility from a relatively small number of parties (production and import facilities) to a relatively large number of parties (terminals and blending facilities). In addition, compliance responsibility could stop at intermediate points in the distribution system if contractual arrangements are made. Compliance and enforcement will therefore depend on the tracking of refined products and lower carbon

blendstocks throughout the distribution system. Accounting of volumes will be required at the terminal level, since much of the compliance will end up at that point.

Inconsistent with the RFS and CaRFG programs: The Federal RFS program bases compliance at the production facility. Required volumes of renewable fuels are based on the share of a particular production facility of the total conventional fuel production for that year. Compliance is greatly streamlined, since regulated parties need only document the volume of conventional fuel produced and the number of RINs purchased. The ARB proposal would result in different parties claiming the same material in their compliance calculations for the two programs.

The California RFG and diesel programs are also based on compliance at the production or import facility. Each batch of product must meet specifications that conform to the appropriate emissions requirements. In the case of gasoline blended with ethanol, simple instructions are communicated to the terminal as to the required quantity to be added. The downstream communication is only required in this case because of the requirement that each gallon of product meet the emissions standards (with some provisions for averaging).

Backward Looking: The ARB proposal appears to be based on a view that compliance throughout the LCFS program will rely primarily on low level ethanol and biodiesel blends. In reality, the LCFS will include a diverse universe of fuels. The likelihood of renewable fuels remaining a major component of compliance with the 2020 standard will be enhanced by development of processes to produce hydrocarbons from renewable feedstocks. The products resulting from these new technologies will be able to be blended at the refinery, consistent with a point of production/import approach.

Moreover, some of the language appears to be consistent with a view that compliance will be on a per-gallon basis. This view could not be less consistent with the LCFS, which could be viewed as the ultimate averaging program: there is no requirement for any individual fuel type - much less volume of a fuel type - to comply with the standards. Compliance will be based on a combination of *all* fuels supplied.

Shifts the Compliance Obligation: The ARB proposal allows the parties responsible for the existence of conventional fuels in California to transfer their LCFS compliance obligation to other parties. Chevron believes that this is inappropriate.

Streamlined Proposal for Regulated Parties

For conventional fuels, the compliance obligation should rest with the parties responsible for the conventional fuels: producers and importers. Based on the quantities of conventional product produced or imported, these parties should be responsible for acquiring sufficient quantities of lower carbon fuels to ensure compliance. This streamlines compliance by integrating planning of both higher and lower carbon fuels within the same organization. It streamlines enforcement by adding certainty to the identity of the obligated party, reducing the number of such parties, and minimizing tracking of products throughout the system.

Compliance under the Streamlined Proposal would be similar to that under the RFS, in that the production and/or importation of lower carbon fuels into California is tied directly to the production and/or importation of conventional, higher carbon fuels. In addition, the volumes of renewable fuels will be used for compliance by the same party in both the California and Federal programs.

Producers and importers would have several mechanisms by which to ensure that their lower carbon fuel obligations can be met (note that other scenarios are possible):

- Direct Usage: The producer or importer acquires sufficient quantities of lower carbon fuels to meet their requirement and blends those materials themselves at their own facilities.
- Separate Transactions: The producer or importer transacts to provide lower carbon fuels for use at others' facilities.
- Combined Transaction: The producer or importer sells both higher and lower carbon fuels to the same party.
- Credit Transaction: The producer or importer provides higher carbon fuels under an agreement by which the transferee provides LCFS credits (based on lower carbon fuel credited to the transferee).

Note that there is no requirement in the proposed regulations that an obligated party physically blend their conventional and lower carbon fuels together: the only requirement is that the carbon intensity of all fuels provided meet the standard on average.

Other Comments

ARB has proposed that customized lookup table values meet a "Substantiality Requirement" that includes demonstration that the carbon intensity using Method 2 is at least 10% lower than the value calculated using Method 1 (Section 95425). Chevron agrees that customized, or "opt-in", values should only be allowed in cases where they represent a significant difference from the standard values included in the lookup table.

November 19, 2008

Page 4

A minimum 10% difference on a well to wheels basis appears to be a reasonable standard. Note that such a standard is not applicable in cases where a fuel pathway is not represented in the lookup table.

On issues relative to the October, 2008 draft LCFS Regulations not discussed in this document, Chevron generally supports the comments provided by the Western States Petroleum Association.

I would be happy to discuss this proposal with ARB staff. If you have any questions, please contact me at (760) 731-0361 or juih@chevron.com.

Sincerely,

A handwritten signature in black ink, appearing to read "James P. Uihlein". The signature is fluid and cursive, with a prominent initial "J" and a long, sweeping underline.

James P. Uihlein

cc: Robert Fletcher
Dean Simeroth
Steve Brisby
John Courtis
Renee Littaua