John R. Braeutigam
VP Strategic and Regulatory Development

August 31, 207

To: Sam Wade

Sent VIA EMAIL to LCFSworkshop@arb.ca.gov

Re: Valero Comments on the September 7th LCFS Workshop and the Pre-Rulemaking Concept Paper

Dear Sam;

Valero is pleased to offer our comments per staff's request on the current rulemaking for the LCFS program. We ask that you keep in mind Valero's unique position as a refiner, regulated party, ethanol and renewable diesel producer. We believe that our comments, if implemented, will improve the workability and compliance with the LCFS regulation.

Comments Re:
Pre-Rulemaking Concept Paper
July 24, 2017
IV. LCFS 2018 Rulemaking Amendments
3. Addition of Third-party Verification
a. Data Types Subject to Verification

- **Initial Validation of Fuel Pathway Applications (Cis): (Page 8)**

Valero is concerned that a Catch 22 situation exists where a biofuel producer needs to receive the economic value (credits) of the CI of its fuel in order to be profitable but needs to have an undefined amount of operating history in order to make an initial pathway application in order for it or the purchaser to generate credits. WSPA suggest that staff address this barrier to participation in the LCFS program by new biofuel plants.
Staff could for example let a producer use design values and a design CI for the first quarter or year of operation and then calculate their actual value at the end of the first quarter or year when they are audited. The producer would then have to purchase credits if its calculated CI was higher than the design value or ARB would award credits to the producer if its actual CI was below the design value. WSPA also recommends that this truing up of credits with required purchases or awards be used to true up existing biofuel producers and obligated parties accounts due to findings stemming from the annual audit that has a positive or qualified positive verification statement (see below).

d. Requirements for Verification of Certain Feedstocks (Page 10)

Based on our operating experience of the Diamond Green Diesel renewable diesel plant of which we are 50% partner with Darling, Valero is concerned that the proposed specific source feedstocks requirement to trace custody from the point of origin is likely to be impossible or very difficult to conduct. In addition, this is a potential significant expense to be added to the program that will hinder renewable biofuel use. Valero believes that requiring that the biofuel producer have records of who they purchased or received the feedstock from (one step up the supply chain) along with the verifier's judgement based on the purchased price versus publically quoted market feedstock prices and a quality analysis of the feedstock will be sufficient to ensure that the feedstock is actually what it is represented to be.

f. Verification Outcomes (Page 11)

Credit Market Functionality – Valero is concerned that unless staff spells out exactly how they will treat the credits associated with biofuels and the impact to a producer having an audited CI above its pathway value, that the credit market could lose its liquidity for current year credits and potentially develop into a two tiered market with credits associated with biofuels after an audit and credits associated biofuels before an audit (or audited and un-audited credits) having two different market prices or liquidity.
Valero has several suggestions to avoid this outcome and to treat both biofuels producers and obligated parties fairly. In general, these suggestions are to document the actions that staff will take based on the various outcomes of an audit. The actual actions that staff will take are not fully described in the concept paper.

1. For all biofuel producer audits staff should hold the biofuel producer accountable for the actual CI versus the pathway CI and the volumes of the biofuels reported. The biofuel producer should have to purchase credits if the actual CI is high or the calculated volume is lower than reported and staff should award credits if the actual CI is low or the calculated volume is higher than reported.
2. The above truing up procedure should also be applied to obligated parties audits.
3. Staff should require a new pathway submission (to take effect the calendar year after the year of the audit) if the actual CI varies from the pathway CI by more than 5.5% or 1 CI number if the CI absolute value is < 20. Note the true-up mechanism will take care of the year of the audit where the high CI was found and the next year until a new pathway value is implemented.
4. Existing producers should be allowed to add a cushion factor to their pathway CI at the beginning of any quarter provided they inform staff ahead of time.

5. New versions of the GREET model should be implemented by producers calculating and submitting a new CI in the year after the new model is adopted with the new CI taking effect January 1st of the following year.

g. Verification Frequency and Credit Generation (Page 14)

To minimize program costs to the consumer, staff should give serious consideration to audits every other year if a facility has a positive verification statement and its CI is below the pathway CI for the prior two years, regardless how big the facility is.

If you have any questions or need additional information, please feel free to contact me at (210) 345-2922.

Sincerely,

John R. Braeutigam
V.P. Strategic and Regulatory Development
Valero

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