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October 6, 2017

Via Electronic Submittal to [LCFSWorkshop@arb.ca.gov](mailto:LCFSWorkshop@arb.ca.gov)

Sam Wade  
LCFS Branch  
California Air Resources Board

**RE: RPMG Comments on ARB Preliminary Draft of Potential Regulatory Amendments and September 22<sup>nd</sup> Staff Presentation**

Dear Sam,

RPMG is a biofuel marketing company representing our owner and marketing partner ethanol facilities located throughout the Midwest. Our combined operations provide both ethanol and distillers corn oil as essential inputs to the California fuels market. We continue to support clean transportation fuel policy, including California's LCFS while focusing on real-world impacts of these proposals. We look forward to continued engagement with ARB.

The draft regulatory language and staff presentation presented on September 22<sup>nd</sup> are substantial documents covering the complete breadth of the regulation. This set of refined comments are complementary to ones we have previously filed throughout this informal period. RPMG is still focused on minimizing costs and regulatory inefficiency. This letter reflects those issues where specific common understanding has not yet been reached.

### **Addition of Third-Party Verification**

#### MRR's Influence in MVS Development

**All references to the MRR, in presentation material, guidance material, and drafted regulatory text, should be clearly spelled out and explained as newly proposed regulatory language for a new stakeholder audience.** Many LCFS renewable fuel stakeholders and regulated entities do not participate under the MRR. Only providing MRR citations by reference requires LCFS stakeholders to cultivate MRR research expertise overnight. This is a burdensome undertaking for existing resources.

RPMG would like to again note the differences between the Cap and Trade Program and the LCFS. LCFS' MVS should not be the mirror image of MRR. The nuances and complexities of LCFS make it distinctive unto itself.

#### Site Visits—Section 95501(b)(4)

**RPMG recommends for ARB oversight audits and site visits to be limited to risk-based criteria for credit validity.** RPMG notes that in addition to initial facility efforts, initial validation, and annual verification that are to be proposed, facilities are also subject to additional random ARB oversight audits and site visits. Reducing the time spent by all parties for duplicative audits and facility inspections with good track records, would allow available stakeholder and CARB staff resources to focus on other remaining essential business and agency functions.

## Verifier Rotation and Accreditation Requirements

**RPMG recommends CARB consider verification cost containment provisions to ensure MVS costs are not exorbitant to stakeholders, and eventually consumers.**

RPMG would like to see CARB institute some type of checks and balance for costs of this newly mandated aspect of the program. One option would be to lessen or suspend annual MVS requirements if the number of verification bodies falls below an established metric. Alternatively, ARB could collect and aggregate the price of MVS services and post on the LCFS Dashboard.

RPMG remains concerned that there will not be sufficient verifiers to cost-effectively handle the myriad requirements of this regulation on a timely basis across the entire fuels industry. CARB staff indicates the expectation of firms providing engagement services under U.S. EPA's Renewable Fuel Standard (RFS) program, international Certification Systems (i.e. ISCC and Bonsucro), as well as MRR and offset verifiers would apply for accreditation to perform LCFS validation/verification services. Having sufficient numbers of qualified verification bodies is an important concern for which RPMG has previously submitted comments and still believe is critical for the ultimate success of the program. Until CARB can qualitatively show otherwise, RPMG is concerned that there will not be a sufficient pool of qualified verification bodies to fully implement the provisions of this regulation in a cost-effective manner.

Our research indicates this remains a very limited potential pool of verifiers, especially after considering Conflict of Interest requirements as described. RPMG notes there are 32 [MRR accredited verifiers](#) today, but we are not able to discern how many of these entities are active in the MRR space or that have an interest in pursuing the MVS program. There are 4 EPA approved QAP verifiers today, although RPMG largely anticipates not all of these verifiers will have an appetite to participate as MVS verifiers. Consideration of ISCC and Bonsucro rounds out this list of identified potential verification bodies applicable to US and foreign LCFS program participants.

**RPMG urges CARB to consider allowing verifier managing partner or individual verifier rotation as a viable alternative to having the entire verification body be disqualified after six years.** RPMG would like to further underscore that there is real value for reporting entities in the existing relationships that have been built with existing auditors and business partners. These relationships are relied upon in the course of everyday business and for multiple tasks associated with multiple jurisdictions. Staff's proposal on these issues will have significant impacts on regulated entities. The current proposal will create an undue burden.

The mandate of verifiers to undergo CARB training and accreditation testing, as well as to submit written verification plans, inherently enable all approved verifiers to maintain the same understanding of LCFS regulations and apply verification techniques to achieve the same magnitude of results and potential findings. Such built in safeguards should allow for individual verifier or responsible partner rotation, rather than a wholesale firm rotation requirement.

RPMG also does not concur with the assumption that entire firm rotation will ensure better verification services, or program compliance. Different isn't always better. Having to switch from known competency to the unknown is a disconcerting thought—especially in the world of environmental compliance. Staff has stated that there are a few examples in MRR's history which suggest a new set of eyes can be useful. This is a subjective standard by which to establish such a fundamental program component. If CARB is going to continue down this path, additional supporting statistics should be provided to stakeholders to justify the additional costs and inefficiency that come with the rotation of professional service firms.

Conflict of Interest Provisions—Section 95503

**It is RPMG’s recommendation that any potential conflict of interest that occurred before January 1, 2019, should be treated as a low (or medium) conflict of interest as long as it is fully disclosed and or mitigated.**

RPMG remains concerned with the look back periods proposed of three-year period during 2019 and 2020 and a five-year period beginning in 2021 in the draft Regulation. The list of “high” conflicts is quite extensive and could rule out a number of otherwise qualified verification bodies based on work that is being conducted before this rule is proposed, finalized, adopted or implemented. RPMG recommends differentiating between a conflict of interest that existed prior to December 31, 2018 and those that exist on or after January 1, 2019. RPMG suggested language on this issue is included our previous comment letter.

In Closing

RPMG Inc. (RPMG) would like to thank the you, your staff and ARB management for transparent rulemaking process that is underway. This is a significant and far reaching update of the Low Carbon Fuel Standard (LCFS) in which its scale and complexity are both expanding considerably. RPMG appreciates the opportunity to participate and provide feedback on this regulatory update as its new provisions will have significant impact on our members and the California biofuel marketplace. Please contact me with any questions or comments at (952) 465-3247 or [jwhoffmann@rpmgllc.com](mailto:jwhoffmann@rpmgllc.com).

Sincerely,



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RPMG, Inc.