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Via Electronic Submittal to:
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California Air Resources Board
1001 I Street
Sacramento, CA 95814

**RE: RPMG Comments on 2018 LCFS June 20, 2018 15-day Amendment Package**

Dear CARB Board Members and Transportation Fuels Branch Chief Sam Wade,

RPMG Inc. (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 distiller's corn oil (DCO) as essential renewable and low-CI inputs to the California fuels market. Since the program's inception over a decade ago, we have supported California's fuel-neutral transportation polices, including the LCFS. Our plants have continually focused on innovation and real-world GHG reductions. To date corn-based biofuels (ethanol and DCO biodiesel and renewable diesel) are directly responsible for more than 50% of the program's carbon reductions as measured by carbon credit generation. RPMG and our affiliated producers are committed to the continuation of innovation at ever increasing rates for the products we supply to California.

The comments provided here pertain to the 15-day amendment package. RPMG would like to acknowledge and state our support and appreciation for the changes already undertaken in the following sections:

- Extended Transfer Period – Section 95483(a)(3)
- Updated Substantiality Provisions – Section 95488.9(a)
- Addition of a quarterly verification option – Section 95500(b)(2)(C)
- Removal of restrictive Conflict of Interest – Section 95503(b)(2)
- Updated default corn transport distance – Simplified Calculator
- Inclusion of biogas and biomass energy consumption – Tier 1 Simplified CI Calculator
- Additions of fields 1.6 Application Description and 1.8 Provisional Pathway identifier to the Tier 1 Simplified CI calculator

Below are comments pertaining to additional modifications or technical recommendations provided to improve the proposed 15-day package:

## § 95488.9. Special Circumstances for Fuel Pathway Applications- (c) Provisional Pathways

As currently written, the section for Provisional Pathways in 95488.9 can be interpreted as a hard limitation of applicability to only "facilities that have been in operation for less than 24 months". This interpretation does not allow an existing facility (with or without an established pathway CI) from securing a Provisional Pathway when demonstrating less than 24 months of operating data applicable to their circumstances, including continuous improvement efficiency projects as well as adding "new" technology or CI-reducing processes. This prevents the entity from securing the additional credits associated with the new lower CI

for the 24-months it would take to collect data necessary for a non-provisional Tier 1 or Tier 2 application plus the additional time for validation and CARB review leading to certification. Those additional credits (and revenue) are needed to help the GHG reduction technology be cost-effective. Through multiple conversations with CARB staff, RPMG has been assured of the agencies intent to provide continued access to, and timely recognition of, essential incremental CI reductions. Waiting for 24+ months to collect operational data and apply for a conventional Tier 1 or Tier 2 pathway would be highly problematic and a very large disincentive to providers of all low-CI fuel types, including affiliated RPMG ethanol producers. Therefore, **RPMG highly recommends Section 94588.9(c) be amended to clarify as follows**:

> *(c) Provisional Pathways. As set forth in sections 95488.6(a) and 95488.7(a), LCFS fuel pathways are generally developed based on 24 months of operational data. The Executive Officer may consider Provisional pathway applications ~~from facilities~~ that ~~have been in~~ demonstrate a period of operation ~~for~~ less than 24 months, provided that at least three months of ~~they have been in~~ operational data is submitted ~~for at least three months~~. Based on timely reports, the fuel reporting entity may generate credits or deficits using a provisionally-certified CI.*

## § 95487 Credit Transactions

Section 95487(d)(7) – Prohibited Transactions was added to the regulation to clarify CARB's authority to cancel or reverse any trade deemed to have violated subsections (1) – (6). This new remedy should have a time limit associated with it. As written, it would extend indefinitely. Entities need to be able to close their books after compliance has been determined. **RPMG recommends the following language and formatting changes** (this language should not be part of the list of prohibited transactions).

> ~~(7)~~ Upon investigation pursuant to section 95495, the Executive Officer may cancel or reverse a credit transfer within 180-days of annual verification if a credit transfer is determined to be a prohibited transaction as per subsection (1) through (6) above. The Executive Officer shall notify the parties and identify the reasons for cancelling or reversing a credit transfer.

## Tier 1 Simplified CI Calculator and Instruction Manual

The Tier 1 Simplified CI Calculator Instruction Manual (IM) is an excerpt from Attachment-C section C-3 of the CA-GREET3.0 Technical Support Documentation, and as presented in this manner RPMG understands this to be a part of the formal rulemaking package. While this inclusion in Technical Support Documentation does provide clear continuity of CA-GREET3.0 work conducted by staff, it also will make it difficult to modify or adjust the instructions on an as needed basis upon administering the LCFS program through additional or updated guidance after the conclusion of the rulemaking and final adoption. **Therefore, RPMG recommends updating the Instruction Manuals as suggested below, and to commit in the ISOR to releasing a timely Guidance Document as issues surface to ensure flexibility in modifying or updating the instructions in the future.**

The IM sates "all inputs selected and input by the applicant are subject to verification unless specifically exempted". Marking the importance of ensuring the parameters for inputs, conversion factors and exemptions outlined in the IM are clear and appropriate for utilization and on-going compliance with pathways. RPMG notes several areas outlined below in need of clarification in order to better determine the sufficiency of the instructions provided.

**RPMG suggests the user-defined option for corn transport distance should be re-instated and**

**maintained along with the 40-mile conditional default for all outside of California producers.** There are three significant issues that arise if this user-defined option for corn transport is not re-instated as outlined here:

1. **There is now a substantial inconsistency between managing grain receipts for corn versus grain receipts for sorghum because one is allowed a user-defined option and the other is not.** Sorghum is generally received and processed in tandem with corn at a single facility, as no known facility operates on only sorghum in the United States. This would result in the same single producer being limited to only using a conditional default for their corn receipts, while allowing for user-defined tracking of actual sorghum receipts. It is impractical and unnecessary for a producer to manage two separate grain tracking methodologies for their Simplified CI Calculator inputs where the producer is not gaining an equal benefit for all recordkeeping efforts. In some cases the vender source of the grain may even be the same for both feedstocks. It is further a burden for validators and verifiers to have to incorporate a forced dual methodology into their review scope – again where there is no distinguishable purpose or benefit to the producer engaging those services. Importantly, if a pathway applicant is able to develop a data collection method for demonstrating user-defined transport mileage for sorghum, it follows that the same applicant would be able to deploy the same resources to also track corn transport distances. **RPMG suggests the user-defined option for corn transport distance should be re-instated and maintained along with the 40-mile conditional default for all outside of California producers.**

2. In the 15-day package IM, corn transport by truck "outside of California" is listed as a conditional default of 40 miles. All other input options have been removed for these users. Conditions for use have been expressed in the IM section *Additional Details for Section 2* as:

   > "for ethanol production facilities in one of nine corn growing states as specified by Argonne National Lab (ANL) known as 'corn belt states' (South Dakota, Minnesota, Iowa, Nebraska, Illinois, Michigan, Ohio, Indiana, and Wisconsin) a conditional default value of 40 miles for corn transport by HDD truck is available for selection. Sorghum transport for these regions is assigned a conditional default value of 80 miles by HDD truck. If the applicant selects this option (and is appropriate based on physical location of the ethanol production facility), transport distance will be subject to one-time validation during initial certification."

   **This explicitly states that use of both the corn default and sorghum default is only applicable to producers located in the 9 "corn belt states."** This creates an artificial barrier for applicable use of the Tier 1 Simplified CI Calculator for all starch ethanol producers outside this stated region. **It is RPMG's position that no condition or limitation of use to only "corn belt states" should be imposed for producers outside of California.** A 40-mile default is sufficiently conservative for most Midwest corn ethanol facilities based on provided research documenting an average transport radius of less than 20 miles.

3. **It also *implies* that if an applicant outside of the specified 9-state region selects the default (again the only present entry option) and somehow is granted use of the same, they *would* be subject to on-going verification of corn transport distance beyond initial validation – because they are not "specifically exempted."** Conditional Default is defined in section B. of the IM and states that "because each conditional default value must be based on reasonable assumptions and be sufficiently conservative to encourage use of site-specific values when feasible, conditional default values are subject to initial validation during the pathway certification

process to confirm that the specified condition are met…" This is a markedly different approach from the original staff suggestion that standard defaults be exempted from verification requirements to reduce burden as documented in the staff discussion white paper released on 01-31-2017. There is further difference noted here of "conditional default" and "standard default", emphasizing a distinction that default values need not be "validated" or "verified" because they are "defaults." In the formal proposal defaults now carry conditions of use and are subject to initial validation. This again is a break away from previous understanding of staff position seeking to overall reduce validation and verification burden for pathway applicants accepting default values. **This imposes an unnecessary burden to applicants, validators and CARB staff in preparing and verifying inputs that are established as conservative defaults for general use. It is RPMG's position that no condition or limitation of use to only "corn belt states" should be imposed for producers outside of California.**

Throughout section 2 of the simplified CI calculator there are descriptions present that indicate "if alternate approaches are used to [insert action], applicant must provide conversion factor used to report [insert calculator input and unit of measurement]." However, it is not specified where this alternate approach should be recorded. The natural location would be the Monitoring Plan (MP). However, the regulations at Section 95491.1 state that MPs are submitted to the Validator and to CARB for review for adequacy but the documents do not undergo any process of approval whereby a facility has assurance of its acceptability. In discussing with CARB staff, it was indicated that all sought alternative approaches should be discussed with staff prior to submitting applications on a case by case basis until or unless formal guidance would be provided in the future. This process appears to put a perpetual burden on staff that may be simply avoided. **RPMG recommends staff incorporate a process for acknowledging alternative approaches as they are received and reviewed in applicant MPs.**

The description for Field Name 2.4 Corn Received states "Input monthly total corn data (in bushels) purchased in this field for all 24 months of operation. While the corresponding entry field in the Simplified Calculator calls for corn received in field 2.4. RPMG notes that there may be a distinct difference in when a plant recognizes a purchase of grain and when that grain is physically received into inventory. **The IM should be edited to consistently reflect total corn data (in bushels) received.**

Section 2 additional detail for Co-products (Fields 2.14 to 2.40) states: "Facilities which report dry or modified DGS co-product streams will be required to report monthly total drying energy by installing dedicated energy meters in their facilities." **This statement should be qualified as applicable to applicants seeking segregated pathways per co-product streams and not to applicants seeking a single composite CI score.**

IM and the Simplified Calculator Field Name for 3.8 is listed as "Electricity from Co-located Solar or Wind" in both places, however regulation section §95488.8(H) Renewable and Low-CI Process Energy states "must be directly consumed" not physically "co-located." **The Field Name for 3.8 should be modified to be consistent with §95488.8(H).**

## §95491.1(c) Monitoring Plan for Entities Required to Validate or Verify

**RPMG recommends modifying Section 95491.1(c)(1)(J) to avoid requiring unnecessary recurring Monitoring Plan updates.** Section 95491.1(c)(1)(J) requires regulated parties to include the "dates of measurement device calibration or inspection and the dates of the next required calibration or inspection." This provision should be modified to require the regulated party to list the date of the last measurement device calibration or inspection at the time of validation and the frequency at which the device will be

calibrated or inspected. Dates of initial calibration or inspection should be provided for devices added following validation. This modification would require the regulated party to supply the same amount of information while not requiring the Monitoring Plan to be regularly updated.

## In Closing

RPMG would like to again thank staff for the progress made with these proposed amendments, and we encourage CARB to use the next 15-day package as the opportunity that it is and further refine this regulation. Please contact me with any questions or comments at (952) 465-3247 or jwhoffmann@rpmgllc.com.

Sincerely,

Jessica W. Hoffmann
Regulatory and Compliance Manager
RPMG Inc.