NPRA

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Subject: Comments from January 30 LCFS workshop

Dear Sir/Madam:

The National Petrochemical and Refiners Association (NPRA) is pleased to provide comments on the updated draft California Low Carbon Fuel Standard. NPRA's members comprise nearly 500 companies, including virtually all U.S. refiners and petrochemical manufacturers. Our members supply consumers with a wide variety of products and services that are used daily in homes and businesses. These products include gasoline, diesel fuel, home heating oil, jet fuel, asphalt products, and the chemicals that serve as "building blocks" in making plastics, clothing, medicine and computers.

These comments are in addition to the comments that NPRA already provided on December 16, 2008. In general, the ARB's draft LCFS fails to address many of the fundamental legal, scientific, and policy issues associated with setting a standard for fuels today. In addition to the concerns that were provided in the prior comments, the current updated proposal contains a number of implied key assumptions that appear to be inconsistent with actual commercial experience and/or are not supported with thorough analysis or facts. The following appear to be four flawed or unsupported assumptions identified in the LCFS rulemaking process that will potentially prevent the LCFS from providing any significant GHG emission reduction benefits and/or eventually achieving full implementation:

1 **Alternative Fuel Cost Higher in Real World** The LCFS essentially assumes that most 'low carbon' alternative fuels along with the required new vehicles and new fuel distribution infrastructure are more economical (lower cost) than the

existing fossil fuel supplies. This assumption appears to be inconsistent with real world commercial market experiences since the establishment of the DOE. During that time period, DOE reporting of alternative fuels markets and analysis shows that most alternative fuels are not commercially competitive and require either government mandates and/or subsidies for market penetration.

2 **Based on Unproven Alternative Fuel Processes** CARB has identified a number of 'low carbon' biofuels that will be needed to achieve the average 10% carbon intensity reductions by 2020. However, most of these low carbon alternative fuels require process technologies that have not yet been commercially proven, or shown to be technically or economically viable by the commercial marketplace and able to deliver the huge volumes required to meet transportation demand. These speculative and economically unproven 'low carbon intensity' biofuels referenced in the LCFS analysis include Advanced Renewable Diesel derived from waste, FT Diesel derived from cellulose, Advanced Renewable Ethanol derived from waste, ethanol derived from cellulose, biodiesel derived from algal oil, and biomethane for use as CNG for heavy duty vehicles. In addition, using large volumes of biodiesel in diesel fuel would require the use of B20 blends for which performance has not been proven with the existing heavy duty fleet. This regulatory approach is equivalent to putting the 'cart before the horse.' All prior successful fuel programs driven by the government always had well defined fuel technology and cost established prior to implementing a clean fuel program with suitable lead time of implementation.

3 **Little or No Net GHG Reduction** The California LCFS program will likely result in little or no net GHG emission reductions nationwide due to regional redistribution. An efficient fuels marketplace will reallocate a higher percentage of the national cellulosic biofuels required for the federal Renewable Fuels Standard to be consumed in the California market so as to also satisfy both federal and California programs at the same time and at the least cost on a national basis (i.e. a rational and competitive marketplace). As a result, the anticipated net GHG emissions reductions will be much lower than currently estimated for LCFS. There will be increased cost for Californian consumers. Also, given that the current E10 blending constraint will limit the use of ethanol blending into gasoline, the large volume of ethanol needed with LCFS will essentially require that costly E85 dispenser pumps and underground tanks be installed all of California's service stations.

4 **Global Total Cropland Already Increasing** Input assumptions used in the indirect land use change (iLUC) modeling incorrectly represent that global food demand will not be impacted. The LCFS proposal creates results leading one to believe that any global replacement of food starch used for producing additional corn-based ethanol in the U.S. can be achieved with very little global land use

> change because of assumed increases in global crop yields and elastic crop substitution used in the iLUC modeling analysis. However, this assumption of additional increases in global crop yield for producing more corn ethanol is inconsistent with actual global crop land increases reported in the United Nations Food and Agriculture Organization's database. The UN data shows that total global crop yield improvements are not even keeping up with increasing global food demand, resulting in continued expansions of total global cropland since 2002. This suggests that all crop yield flexibility and substitution elasticity in global agricultural industry are already being stretched just to meet growing global food demand. Therefore, any new starch or oilseed demand for expanding biofuels production will only end up increasing global cropland expansions further.

Based on a review of the updated proposal and workshop material, it appears that the assumptions in the LCFS proposal either ignore or do not fully address the above four key issues. Also, if one or more of these assumptions should fail, then it is unlikely that the LCFS objectives will be achievable. Therefore, NPRA recommends that CARB thoroughly address each of these key assumptions before implementing the LCFS program.

NPRA remains concerned that the LCFS could block access to crude oil deliveries, such as Canadian oil sands. In my letter dated December 16, I explained that if California refiners were forced to find crude oil supplies from other parts of the world then there could be unintended consequences by actually increasing GHG emissions globally due to incremental transportation of crude oil into and out of the U.S. Additionally, if an LCFS were used to discriminate against or otherwise impede Canadian crude imports into the United States, it would have several adverse impacts for American energy security and refinery production.

During an interview on February 17, President Obama said that the U.S. should not tackle this issue of Canadian oil sands in isolation. California shouldn't either.

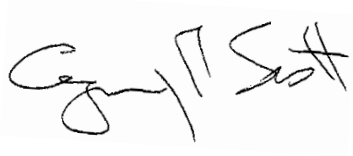
> "Q So are you drawing a link, then, in terms of the future of tar sands oil coming into the U.S. contingent on a sense of a continental environment policy on cap and trade?
>
> THE PRESIDENT: Well, I think what I'm suggesting is, is that no country in isolation is going to be able to solve this problem. So Canada, the United States, China, India, the European Union, all of us are going to have to work together in an effective way to figure out how do we balance the imperatives of economic growth with very real concerns about the effect we're having on our planet. And ultimately I think this can be solved by technology.

> I think that it is possible for us to create a set of clean energy mechanisms that allow us to use things not just like oil sands, but also coal. The United States is the Saudi Arabia of coal, but we have our own homegrown problems in terms of dealing with a cheap energy source that creates a big carbon footprint.
>
> And so we're not going to be able to deal with any of these issues in isolation. The more that we can develop technologies that tap alternative sources of energy but also contain the environmental damage of fossil fuels, the better off we're going to be."

In the January 2009 revisions to the draft LCFS rule, you propose a regulatory review at section 95429 by January 1, 2012. This should be extended such that there is a periodic regulatory review every three years. The entire LCFS program should be evaluated periodically to make adjustments based on new technology, fuel supply issues, and economic or environmental concerns. Should such reviews yield significant modifications to the program, impacted parties must be provided adequate time to comply.

Because of our association's strong expertise in transportation fuel markets and processing, NPRA feels it is necessary to point out these possible fallacies in the LCFS proposal before it is implemented by the state. These issues are in addition to the concerns that NPRA already provided in our December 16 comments on the LCFS. As always, NPRA welcomes the opportunity to further discuss these issues with CARB.

Sincerely,



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