VALERO

VIA E-MAIL

September 28, 2011

Floyd Vergara
Chief, Alternative Fuels Branch
California Air Resources Board
1001 I Street, Sacramento
California 95814

Electronic submittal:

Re: **Proposed Changes to the LCFS Regulations**

Floyd:

Valero Refining Company – California and Ultramar Inc (collectively "Valero") appreciate this opportunity to provide comments regarding the California Air Resources Board ("ARB") proposed changes to the LCFS regulations, and other issued discussed at the September 14 workshop. Valero owns and operates two refineries in the state of California, with a combined throughput capacity of over 305,000 barrels per day. Not only is Valero one of the largest ethanol producers in the U.S., we also market all of our ethanol. In addition, Valero is investing in renewable diesel and cellulosic ethanol projects. Valero, on behalf of itself and its affiliates, is providing comments because of the significant impact the Low Carbon Fuel Standard regulation will have not only on its California operations, but on the people and economy of the State.

We have listed below several issues and concerns that we wish to expand upon further to lessen the impact and improve upon your efforts.

1. **Valero remains supportive of the majority of the proposed regulatory language changes.**

In general, the changes and additions ARB is proposing should make the regulations more workable and fill in some of the gaps that existed. However, while we support the proposed changes to prevent orphan LCFS credits for alternative fuels Section 95480.2 (a) and (d), we are not supportive of the changes in the definitions of importer and import facility Section 95481. (a) (24) and (25)(A) and we do not support the expansion of LCFS obligation to parties upstream of the ethanol importer Section 95480.2 (b) and (c). Specific issues are addressed below.

2. **Valero does not support the expansion of the LCFS obligation to parties upstream of the ethanol importer Section 95480.2 (b) and (c).**

Valero is one of the largest ethanol producers in the U.S., we have ten ethanol plants registered with ARB and have made the initial demonstration of physical pathway for two of them, and we market our ethanol.

a. As an out of state ethanol producer and a company in the marketing chain between the out of state producer (our self) and the importer (our customers), we see no need for the ability to opt into the LCFS program and retain the LCFS obligation for the ethanol. In fact, we doubt that our customers would purchase our product, if we retained the LCFS obligation.
b. The current wording of Section 95480.2 (c)(1) may not have the result that ARB intended. When taken together with the proposed changes to the definition of Importer and Import Facility Section 95481. (a)(24) and (25)(A), which Valero does not support, the marketer may at times be the importer, not the party in between the importer and the out of state producer.
c. Obligated parties have invested time and expense in setting up their business systems to capture the required data for the LRT. It is not fair to make these parties incur additional expense now to reprogram their systems because some marketers and out of state ethanol producers did not take an active part in the development of the LCFS regulations and want a change a year and a half into the program.
d. If ARB decides to keep the unnecessary flexibility of allowing parties upstream of the ethanol importer to opt into the LCFS program, then it should at a minimum, not change the definition of Importer and Import Facility as proposed in the latest revision of the regulations.

3. **Valero does not support the changes to the definition of Importer and Import Facility in Section 95481. (a)(24) and (25)(A).**

Valero is one of the major ethanol importers in California. The most recent proposed changes to the definition of Importer and Import Facility are not needed and will cause problems and confusion. Valero does support the portion of the definition of Import Facility in Section 95481. (a)(25)(B) and (C).

a. The proposed changes in the definition of Importer and Import Facility will cause confusion. The regulations must be consistent and straight forward. To avoid confusion in commercial transactions, the Importer needs to be the same all of the time. If some of the time the importer is the purchaser and some of the time the importer is the marketer or producer, parties will not know how to report their transaction in the LRT. Similarly, the Import Facility needs to always be the same (the receiving terminal tank in California), not sometimes the terminal and sometimes the railroad car.
b. Obligated parties have spent time and money setting up their business systems to capture the required data for the LRT. It is not fair to change basic definitions now that really do not need to be changed and cause these parties to incur additional expense.

4. **Valero again urges ARB to be very cautious in its "consideration of provisions to address low-energy-use refining processes" per Resolution 10-49.**

ARB needs to make sure that it does not pick winners and losers and treats all companies equally. Valero would like to point out that the board resolution directed staff to "consider", if feasible, to implement a provision for low energy use refining "processes" not low-energy-use refineries. If staff cannot develop a regulation structure that does not pick winners and losers and treats all companies fairly, then staff should report back to the board that implementing such a provision is not feasible or recommended.

Valero strongly urges ARB to consider these comments when developing the changes to the LCFS regulations. If you have any questions, please contact me at (210) 345-2922.

Sincerely,

John R. Braeutigam

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V.P. Strategic & Regulatory Development