ALON USA

BAKERSFIELD REFINERY

November 21, 2014

VIA E-MAIL
Mike Waugh
California Air Resources Board
1001 I Street
Sacramento, CA 95814

Subject: Alon USA Comments on November 13, 2014, Proposed Language for Low Complexity – Low Energy Use Refinery Provisions to California's Low Carbon Fuel Standard Regulation

Dear Mr. Waugh,

Alon USA Energy (Alon) respectfully submits these comments on the proposed regulatory provisions to be included in the upcoming readoption of California's Low Carbon Fuel Standard (LCFS or regulation) for Low Complexity – Low Energy Use Refiners (LCLE Refiners). Alon and the Board have been discussing the concept of a LCLE refiner provision since 2011. At the workshop, it was noted by Board Staff that we are now down to the final stages of the readoption process, AND the Board won't take up additional amendments for another three years. It is against that backdrop that Alon again strongly requests ARB to take a holistic approach to this regulation and crafts its provisions to address ALL the refineries located in California.

The LCLE provision is an important policy acknowledgment by the Board that there are refineries in California that produce transportation fuels while consuming substantially less energy per gallon. These refineries are limited in numbers, have historically been acknowledged by the regulators that they operate at a market disadvantage, and are by their very design smaller and less complex. Alon operates two such refineries, including one in Bakersfield that seems to be forgotten in this regulatory process. Alon strongly supports the LCLE policy as requested by the ARB Board, but we have grave concerns over its proposed implementation by staff, specifically the complete omission of our Kern County facility[1].

Though Alon's Bakersfield refinery is currently operating in a very limited mode, Alon is actively working to bring production back to 2008 levels[2]. The Kern County Board of supervisors recently approved an Environmental Impact Report to allow Alon to reconfigure the Refinery and Alon is beginning the engineering work. The impacts of the LCFS and the LCLE refiner provisions are a significant economic consideration for the facility. Additionally when operating, the fuels produced

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[1] http://www.arb.ca.gov/fuels/lcfs/lcfs_meetings/111314handout1_crudeoil.pdf , Slides 30 and 31 do not include the Bakersfield refinery.

[2] The previous owner, Shell (Equilon) was planning to close the refinery, but the State of California and its U.S. Senators intervened in 2004 leading to the sale of the facility in 2005 to Flying J to insure an adequate fuel supply for the state.

by the Bakersfield facility would save up to 350,000 metric tons of GHG emissions annually over what would otherwise be emitted by an average California CI refinery. The question ARB needs to be asking is "Do we want to encourage or discourage lower CI fuel production in California?". Establishing the appropriate LCLE eligibility criteria is critical to answering this question. This includes addressing LCLE status for the Bakersfield facility.

We have an opportunity to make the LCLE work for the future for all refineries in California. Alon cannot wait four years for the next scheduled LCFS revision to take effect to provide credit for the low carbon fuel produced from Bakersfield.

Summary of Comments

- Alon supports inclusion of a Low Complexity – Low Energy Use Refinery provision;
- Alon supports the staff proposal of a 5 gCO2e/MJ adjustment, for both gasoline and diesel, at the reporting tool level;
- Alon **strongly opposes** the eligibility metrics for the LCLE refinery category as the Bakersfield facility clearly has a low refinery carbon intensity and is a clear candidate for LCLE inclusion, but is outside the range of the proposed "5/5" metrics.

Comment Details

Inclusion of the LCLE Refiner provision correctly recognizes that the carbon intensity (CI) associated with the refining portion of a California's fuels is not uniform. Along with other specific refiners, the Bakersfield facility is lower in complexity and energy input than the majority of the in-state fuel producing facilities. These lower complexity, lower energy facilities can been shown to have a significantly lower CI. The challenge over these past few years has been to find a way to separate these groups in a manner that is publicly transparent, technically defensible, and provides the necessary eligibility "bright line" between the two. The issue is how to define the *eligibility* metrics, but it has never been in question that Bakersfield's refinery CI will be significantly lower than the statewide average presented at the workshop.

Alon has demonstrated that the CI of the Bakersfield facility is very low for gasoline and diesel production.[3] This is the metric that should matter the most in the LCFS, the fact that the facility is currently not in full operation, should not impact the eligibility criteria that will be in effect when the facility comes back into more normal operations. The fuels being produced at Bakersfield have a lower carbon intensity, therefore inclusion into the LCLE category is consistent with the underlying policy, and excluding the facility is inconsistent.

[3] Calculations and data were provided electronically to ARB.

The currently proposed eligibility metrics are Total Annual Energy Use and a Modified Nelson Complexity Index. Alon supports the use of these metrics, but considers the currently proposed eligibility levels of 5 million MMBTU/year and a modified Nelson Index complexity below 5 as overly conservative. Additionally, the total energy input should only reflect refining operations[4]. This "5/5" level isn't reflective of the category of refineries that it is trying to include. As an alternative, Alon has been and continues to recommend an eligibility criteria of "7/7".

Even at these revised levels, CARB is assured of only including refineries that produce transportation fuels at substantially lower CI. Alon understands CARB's concern about making the LCLE category too broad, but it would be a far worse policy, economic and environmental outcome to make it too small. This proposed change impacts one line of the regulation and would not have any ripple impacts throughout the remaining LCFS language. It truly is a stand-alone change.

The only other refinery that would be near the higher energy consumption metric clearly would not qualify under the complexity side of the rule—therefore no loophole exists.

Alon opposes the 5/5 eligibility levels and believes them to be inconsistent with AB 32 and the LCFS goals of lowering California's GHG emissions from the transportation sector. Since these metrics need to be met independently, setting eligibility at the 7/7 levels will still provide a divider between California's two classes of refineries. As time is running out, we again ask that you reconsider the 5/5 metric and draft a regulation that works for ALL of the state's facilities that need to comply with the LCFS.

[4] For example, terminal operations should not impact LCLE eligibility determination.

If you have any questions on these comments please contact Jon Costantino at 916-552-2365 (jcostantino@manatt.com) or Gary Grimes at 562-531-2060 (ggrimes@ppcla.com) .

Respectfully submitted,

/s/

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