



Kern Oil & Refining Co.

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VIA EMAIL

(LCFSworkshop@arb.ca.gov)

Sam Wade
Chief Transportation Fuels Branch
California Air Resources Board
1001 I Street
Sacramento CA, 95814

Dear Mr. Wade:

Kern Oil & Refining Co. (Kern) is providing comments on the California Air Resources Board's (ARB) Public Workshop to Discuss Draft Regulatory Text for the Low Carbon Fuel Standard (LCFS) held on November 6, 2017. Kern is specifically providing comments on the following: (1) Post 2020 compliance curve ratability; (2) Updating fuel pathways to GREET 3.0 efficiently; and (3) the Refinery Investment Credit Pilot Program (RICPP). Kern is providing preliminary comments below with the understanding that additional specificity is necessary to finalize Kern's position on ARB's dynamic, evolving proposal.

Kern is an independently owned, small refinery located in the Southern San Joaquin Valley, just outside Bakersfield, California. From the inception of the LCFS, Kern has been acutely aware of the potential inequalities that result from methodologies adopted to effectuate program goals in a manageable manner for ARB. At a crude oil capacity of 26,000 barrels per day, Kern is the smallest refinery in California currently producing transportation fuels. Given the vast discrepancy in facility size and complexity in the refining sector, a "one size fits all" approach puts Kern at a distinct disadvantage to its competitors. Kern appreciates both the Board and Staff for not only acknowledging these circumstances and functional differences, but for taking action and incorporating provisions that recognize and mitigate the inequalities inherent in the broader LCFS "average refinery" approach. Kern respectfully requests this consideration be extended by Staff in the current proposed amendments.

1. The Post 2020 Compliance Curve Must Be Carefully Managed to Prevent Dramatic Negative Market Impacts.

ARB is proposing that the compliance curve hold steady at a 10% reduction in the carbon intensity of fuels post 2020 until 2022, after which there will be annual reductions of one percent until 2030. Kern appreciates this intended ease into post 2020 reductions driven by recent

legislation. ARB should continue to manage compliance curves to prevent imposition of a sudden dramatic reduction that would negatively affect the market and regulated parties' ability to comply. Kern supports requiring reductions in a ratable and smooth manner.

Kern remains apprehensive about the post 2020 emission reduction curve and the potential disproportionate effect on smaller refineries. As the curve is further refined and developed, Kern urges staff to continue to consider the potential disproportionate impact on smaller facilities and ways to alleviate that burden.

2. Requiring Fuel Pathway Holders to Endure a Full Pathway Reapplication as Opposed to Merely Updating to CA-GREET3.0 is Unduly Burdensome and Will Chill Production of Renewable Fuels.

Kern urges ARB to reconsider the proposed requirement under 95488.9(f) that fuel pathway holders reapply for pathway certification using the updated CA-GREET3.0 model to have a valid fuel pathway for use in 2020 and beyond. ARB's approach to transitioning from pathways certified under CA-GREET2.0 is excessively restrictive to existing fuel pathway holders given the constraints proposed for how long existing pathways will remain valid. Requiring fuel pathway holders to be subject to the full pathway application process again is also unnecessarily rigorous.

Fuel pathway applicants today are required to use CA-GREET2.0 to model the life cycle emissions and determine the carbon intensity of their fuel. Tier 2 pathway applications largely require the use of site-specific data in determining the appropriate input values for various parameters required by the model. The process for collecting and evaluating the site-specific data in support of these unique inputs is an arduous task, but results in a defensible and verifiable fuel pathway. At the September 22, 2017, workshop, ARB staff verbalized that transitioning to CA-GREET3.0 certified pathways will not be "as simple as plugging CA-GREET2.0 inputs into the CA-GREET3.0 model." In actuality, the process should be just that easy. A certified fuel pathway holder has already made the required demonstrations for data integrity, such that the full application analysis is unnecessary, particularly in light of the proposed verification process.

Kern has invested a more than a year of work and a significant amount of money into the process for fuel pathway certification, and at this time expects to receive a certified CI by first quarter 2018. Kern would only be able to use the certified CI for generating credits in calendar years 2018 and 2019, after which this fuel pathway would be deactivated. Kern would need to begin the lifecycle analysis by mid-2018 in order to work through the approval process and receive a new certified CI using GREET3.0 by 2020. The current proposed amendments would further require Kern to hire an approved third party to perform the pathway validation process, making the reapplication process even more costly. This duplication of efforts is a waste of financial resources and an inefficient use of staff's time, especially for a small refinery. Kern is concerned that this requirement puts up barriers for small producers to get renewable fuels into the market with very little benefit to ARB.

3. For the RICPP to Truly Incentivize Refiner Investment in Emissions-Reducing Projects, its Requirements Must be Attainable for Refineries of All Sizes.

Kern is generally supportive of the RICPP and submitted detailed comments regarding the RICPP workshop on September 29, 2017. Kern supports ARB's direction in applying the 1% reduction threshold for determining eligibility and reiterates the need for flexibility in accounting for GHG emissions at the process unit level. Kern is disappointed in the unnecessary limitation imposed by the four types of projects proposed in the draft regulatory text. Refineries are under extreme pressure to reduce GHG emissions, which will take equally extreme ingenuity and effort to achieve. Kern urges ARB to rethink the approach to the RICPP and include language allowing broader opportunities for qualifying projects. Placing regulatory limitations on projects based on equipment type, project cost, or operational outputs will only serve to further disadvantage small refiners by creating a program that is unattainable to them.

In conclusion, Kern appreciates ARB's consideration of Kern's comments. As always, Kern is committed to working with Staff throughout this regulatory process. Please do not hesitate to reach out to me at (661) 845-0761 with any questions.

Sincerely,



Melinda L. Hicks
Manager, Environmental Health and Safety
Kern Oil & Refining Co.