ALON USA

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Via electronic submittal to: http://www.arb.ca.gov/lispub/comm/bclist.php

Clerk of the Board
California Air Resources Board
1001 I Street
Sacramento, CA 95814

Subject: Comments on the 15 Day Regulatory package for the LCFS Regulation

Alon USA Energy (Alon) strongly supports the Low Carbon Fuel Standard's (LCFS or regulation) provisions for Low Complexity – Low Energy Use Refiners (LCLE Refiners). These provisions recognize that not all refineries are the same. We believe that there are solid policy and technical justifications for this distinction to be codified in the LCFS. The Air Resources Board (CARB or Board), as well as, the U.S. Environmental Protection Agency have traditionally recognized in their regulatory programs the unique value small refiners (LCLE) occupy in both the oil and finished fuel markets, as well as, their unique configurations and operating constraints. Additionally, smaller, less complex refiners also have the added distinguishing characteristic that they produce finished fuel with a lower Carbon Intensity (CI), the heartbeat of the LCFS. Recognizing that difference is a very positive step.

That being said Alon, is very disappointed that the proposed final regulatory provisions for the re-adoption of California's Low Carbon Fuel Standard (15-day changes) fails to recognize Alon's Bakersfield Refinery as a low carbon fuel producer (LCLE). The facility is configured and engineered to produce lower CI fuels. Alon, CARB staff and the Board have been actively discussing the concept of a LCLE refiner provision since 2011, including adopting previous resolution language on the subject matter. Over the past four years, the policy construct behind recognizing the inherently lower carbon intensity of smaller, less complex refineries has been fully agreed upon. It is for this reason that Alon is saddened that staff was unable to agree on a solution that would include all of California's truly LCLE refineries. Unfortunately, the final limited LCLE definition has several negative implications, including: creating an uneven competitiveness within the smaller refinery subsector, increasing statewide GHG emissions from California's transportation fuel sector, not recognizing the true economic impact on Bakersfield, and setting a precedent regarding use of data. Finally, it locks into place a significant regulatory and economic obstacle to restarting the Alon Bakersfield refinery. **Alon strongly urges the Board to direct staff to revisit this issue at the earliest opportunity.**

The LCLE provision was intended to be an all-encompassing policy acknowledgment by the Board that there are refineries in California that produce transportation fuels while consuming substantially less energy per finished gallon. Nobody would ever say the Alon Bakersfield facility looks or operates like California's biggest refineries.

As we know, the LCFS regulation impacts refineries that are both operating AND may resume operations shortly by providing the "rules of the game" for many years to come. This regulation will not only impact Alon's Bakersfield refinery but could have consequences for Alon's Paramount refinery where we are in the process of modifying some of the process units to produce renewable diesel from animal and vegetable fats. [1]

California's smaller, less complex refineries are few in number and have been historically acknowledged by CARB to operate at a market disadvantage. This historical recognition started in the earliest of CARB rulemakings on California's transportation fuel (clean diesel and reformulated gasoline). Recent regulatory actions by the agency to implement AB 32 have not been consistent in recognizing these differences. In fact, rationale provided to Alon by CARB staff for not recognizing small refiners under the Cap and Trade program was that this issue would be better suited for the LCFS regulation. Now both regulations have been updated, and both regulations leave Alon's Bakersfield refinery abandoned.

The staff recommendation itself was disappointing, but Alon is equally disappointed that neither the Bakersfield refinery, or its data were considered when analyzing the LCLE provisions initially, even though we had been in active discussion with staff for years. At the direction of CARB Alon waited almost a year for new Mandatory Reporting (MRR) to be collected and analyzed for the statewide refinery fleet. Unfortunately, the updated MRR did not include the requirement for over-the-fence purchased hydrogen data which would further demonstrate the large difference in carbon intensity between the LCLE refineries and the other refineries in the state. Soon after learning that the data needed to help draw the distinctions wasn't coming, the draft LCFS regulation was written to exclude the Bakersfield refinery from the LCLE category without the benefit of its data. Since that point, staff has not wanted to adjust the eligibility criteria. The inertia of the initial draft was significant. Alon feels the Bakersfield refinery was a victim of the regulatory adoption system.

Though Alon's Bakersfield refinery is currently operating in a very limited mode, Alon is actively working to bring production back to 2008 levels and has spent millions of dollars in the environmental review process. The Kern County Board of supervisors has approved an Environmental Impact Report to allow Alon to reconfigure the Refinery and the necessary engineering work has commenced. The impacts of the LCFS and the potential mitigating effects of the LCLE refiner provisions are significant economic considerations for the facility. By leaving the Bakersfield Refinery outside the LCLE universe CARB staff has substantially increased the economic impact that the facility will need to overcome and decreased the likelihood that California will receive the low carbon fuel supplies that it could provide.

Alon believes that the inclusion of the Bakersfield refinery in the LCLE would have been a win for the environment and a win for the central valley economy -- Because the CI of the Bakersfield facility is materially lower than the average California refinery, the fuels produced by the facility would save as much as 400,000 metric tons of GHG emissions annually over what would otherwise

[1] The Paramount Refinery meets the LCLE criteria and an economic evaluation will be needed to determine if it is economic to produce low carbon intensity conventional fuel at the facility.

be emitted by an average in-state refinery and its inclusion would have helped assure good middle class construction and refinery jobs in the economically hard it central valley.

The potential loss of these GHG reductions is a significant environmental impact. In fact, it is almost equal to the GHG emission reduction benefits of an entirely new Major Regulation currently proposed—The Crude Oil and Natural Gas Operations regulation. That entire regulation, estimated to cost more than $50 million dollars to California business is anticipated to only achieve 556,000 tons of reductions The failure to analyze the environmental impacts associated with the Bakersfield refinery being in the LCLE universe is a serious CEQA issue. Alon worked diligently over the past year trying to understand CARB's concerns. The 15- Day package was an opportunity to make the LCFS's LCLE provisions work for all low carbon intensity refineries in California, and Alon offered various compromise proposals, including proposals to limit the benefit any single LCLE refiner could receive in an attempt to deal with staff's concerns regarding "regulatory creep" and "breaking the bank". Unless the Board directs staff to revisit this issue at the earliest of re-openings, Alon must wait years for the next scheduled LCFS revision in 2018.

In summary, while Alon strongly supports the concept of LCLE provisions, the proposed LCLE provisions missed the mark because the LCLE eligibility criteria of "5/5" isn't reflective of the complete category of refineries that fit its important policy goal. **Alon respectfully asks the Board to direct staff to revisit this decision as soon as practicable.**

If you have any questions on these comments please contact Gary Grimes at 562-531-2060 (ggrimes@ppcla.com).

Respectfully submitted,

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