VALERO

April 22, 2009

Clerk of the Board
Air Resources Board
1001 I Street
Sacramento, CA 95812

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

Re: Proposed Low Carbon Fuel Standard

Valero has been and will continue to be an active participant in the implementation of AB 32 and efforts to establish a first of its kind Low Carbon Fuel Standard (LCFS). We remain concerned that the California Air Resources Board is rushing forward to implement this program without adequate certainty about the overall cost to refiners, businesses and consumers. The unintended consequences of your decisions can be far reaching, with potentially negative impacts to the economy and the overall reliability of the energy markets. We strongly suggest that you complete the development of the LCFS prior to the adoption of this regulation. Meeting arbitrary deadlines should not be confused with informed decision-making. If your goal is to maintain a leadership role nationally and internationally, it must be based on well reasoned and effectively developed programs.

Economic Analysis

Valero believes that the economic analysis prepared by CARB is overly optimistic and that the potential cost of the LCFS program could be significantly higher. For example, at a recent CEC transportation infrastructure workshop, one commissioner pointed out that at $100,000 per station to install a tank, lines and pump for E85, the total cost for California gasoline retail outlets would be almost $1 billion.

Valero is concerned about the possible disruption to future California transportation fuel supply. In the near term, E85 is expected to be one of the mechanisms to meet the LCFS; however, we are not aware of a solution to the problem of getting third parties to make the infrastructure investment for E85, when the economics of doing so are unattractive.

LCFS Technical Feasibility

In addition, we are concerned about the feasibility of the LCFS. All of the potential compliance scenarios proposed rely on advanced biofuels that are not commercially available, advanced vehicles and significant transportation fuel (including biofuel) infrastructure investment requirements above the truck rack, at the truck rack and at retail outlets.

LCFS Credits

Valero believes that the LCFS regulations must create a level playing field for obtaining and generating LCFS credits among all parties that have control over what is added to CARB gasoline, CARBOB and CARB diesel. The LCFS regulations must create a level playing field between obligated parties and oxygenate and biodiesel producers. Specifically, the automatic transfer of the LCFS obligation from the seller to the buyer for CARB gasoline, CARBOB or CARB Diesel, before loaded into trucks at the truck rack, should apply to all buyers not just those that are refiners and importers. The party that has title to the fuel at the truck rack is the party that controls what, if any, biofuel is added. The LCFS regulations will be more workable if all parties that have title to fuel at or above the truck rack, have a direct obligation rather that a indirect incentive to blend biofuels. In addition, the sellers of oxygenates and biodiesel should not be allowed to retain the LCFS obligation at their discretion. This is in direct conflict with how the U.S. EPA set up the RFS program. We believe that the same reasons the U.S. EPA had for the automatically transfer of RINs in the RFS program should equally apply to the LCFS program.

Physical Pathways

To avoid duplicate work establishing physical pathways, CARB should expand the regulation to require U.S. producers of alternative fuels to register their facilities and provide a CI value for their fuel and make the physical pathway demonstration. CARB should then post the facility list and corresponding CI value for all obligated parties to use. The pathway demonstration and CI determination requirements should also apply for importers of renewable fuels into the U.S. with a posting of the resulting pathway and CI for other importers to use.

Indirect Land Use Change (ILUC)

Valero supports CARB's inclusion of ILUC, a back end loaded compliance schedule, and flexibility for renewable fuel producers to modify existing pathways and to establish new fuel pathways as approved by the EO. However, to provide certainty for investors so that the necessary investments in advanced biofuels will be made, the regulations should specifically state that CI values are to be grandfathered for the 15 to 20 year life of a project. In addition, to avoid potential disruptions in supply, the EO should be allowed to make minor general changes to CI values based on new information, but major changes (for example a significant increase in indirect land use impacts affecting a entire category of biofuels) should require board approval and should provide an adequate lead time of at least 5 years for fuel providers to make adjustments before becoming effective.

Summary

The Low Carbon Fuel Standard is an extremely complex proposal. CARB must take the time needed to insure they fully understand the impacts and consequences of this regulation. It must be done right. To this end we are committed to working with you as a resource to better your understanding of this complex regulation.

By this letter, Valero also incorporates the comments submitted by the Western States Petroleum Association (WSPA).

If you have any questions or wish to discuss this further, please contact me a (210) 345-2922 or by Email at john.braeutigam@valero.com.

Sincerely,

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