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May 20, 2021

VIA: ELECTRONIC MAIL ONLY

Susan Nakamura, Assistant DEO (snakamura@aqmd.gov)

Michael Krause, Planning and Rules Manager (mkrause@aqmd.gov)

Re: Strong Opposition to Facility-Wide Mass Cap Concept under Refinery Rule 1109.1

Dear Ms. Nakamura and Mr. Krause:

The undersigned organizations submit this letter in **strong opposition** to the facility-wide mass emissions cap alternative proposed by petroleum refineries under Refinery Rule 1109.1.¹ This facility “bubble” approach would excuse refineries from ensuring that all equipment meet available and cost-effective BARCT NO_x limits, evading “the maximum degree of reduction achievable” from each refinery equipment.² Consequently, the proposal would allow refineries to leave in place high-polluting equipment near the fenceline and adjacent communities without any pollution controls or replacements to achieve BARCT limits. This outcome undermines the agency’s promise to adopt a strong Refinery Rule 1109.1 to protect surrounding communities.³

Based on South Coast AQMD’s analysis, petroleum refineries and related operations emit about 29 percent of NO_x emissions from stationary sources in Wilmington, Carson, and West Long Beach, which are some of the most overburdened environmental justice communities in the region.⁴ This large percentage is second only to the NO_x emissions from the Ports, and even exceeds substantial transportation source emissions. These NO_x

¹ SCAQMD, Proposed Rule 1109.1 – NO_x Emission Reduction for Refinery Equipment and Related Operations, Presentation at slide 19 (Apr. 30, 2021)(Working Group Meeting #20).

² Cal. Health & Safety Code § 40406.

³ SCAQMD, Community Emission Reduction Plan for Wilmington, Carson, West Long Beach 5b-1–3 (Sept. 6, 2019) (Draft Final).

⁴ *Id.* at 3b-2.

emissions contribute to ground-level ozone formation and particulate matter pollution that burdens residents with a range of health harms. Despite being a significant source of NO_x pollution, petroleum refineries have avoided installing available life-saving pollution controls for decades through their participation in the NO_x RECLAIM program. The proposed facility-wide mass cap would further extend this non-compliance with BARCT mandates under the Health and Safety Code.

Refinery Rule 1109.1 is meant to transition refineries to a command-and-control regulatory framework with equipment-specific limits to achieve BARCT, and to deliver finally on the pollution reductions needed in some of our most environmentally overburdened communities. The proposed facility-wide mass cap undermines these objectives. Several reasons warrant the agency's rejection of this polluter-crafted proposal:

- This approach would deviate from BARCT, which requires that the agency set emission limits and determine potential controls for *each* source category. Providing a facility-wide mass emissions cap would allow petroleum refineries to avoid replacing or retrofitting *all* outdated equipment to attain the *maximum* degree of emission reductions. Instead, petroleum refineries would likely focus on low-cost controls, while leaving high-polluting equipment in place. As noted, some of this neglected equipment might be near refinery fencelines, which would continue to expose residents to high pollution levels from routine and non-routine operations. Further, refineries would not be required to evaluate the health impacts on surrounding communities based on the equipment selected for updates under this facility-wide mass cap as compared to meeting BARCT limits at all covered equipment.
- This approach would recreate the failed NO_x RECLAIM program at the facility level, conflicting with CMB-05's mandate to transition to command-and-control. In particular, petroleum refineries would be able to “trade” emission allowances between various sources to meet the “cap” and once again avoid installing life-saving pollution controls on a range of equipment. A facility-wide mass cap would deviate from the agency's promise to move away from a cap-and-trade structure. Moreover, the U.S. EPA has already advised against using facility-wide emission limits as interim limits as facilities exit the NO_x RECLAIM program given that doing so would not align with the command-and-control regulatory framework refineries are transitioning into.⁵

⁵ SCAQMD, NO_x RECLAIM Working Group Meeting, Presentation at slide 20 (May 13, 2021).

- This approach would be difficult for regulators and local residents to oversee and enforce, allowing petroleum refineries to manipulate purported NOx reductions. For instance, not all equipment at petroleum refineries has continuous emissions monitoring to verify compliance with applicable limits. Consequently, the agency would rely on equipment with infrequent, easily manipulated source tests and unreliable emission factors to determine compliance. Additionally, there are uncertainties in calculating the facility-wide mass for each refinery, including equipment concentration and flow uncertainties, and emissions monitoring calibration and down time issues.

We request that the South Coast AQMD reject this industry proposal to create facility-wide mass caps. The approach is unacceptable and unjustified for the reasons noted above. Petroleum refineries should be required to meet specific limits for each source category and install all pollution controls where deemed cost effective by the agency. If facilities are unable to meet required modern standards for individual units—either because many are hopelessly antiquated or for other reasons—these units should be shut down. We appreciate your review of these concerns.

Sincerely,

Oscar Espino-Padron, Attorney
Byron Chan, Attorney
Adrian Martinez, Attorney
Community Partnerships Program
Earthjustice

Julia May, Senior Scientist
Alison Hahn, Legal Associate
Communities for a Better Environment

Maya Golden-Krasner, Deputy Director and Senior Attorney
Climate Law Institute
Center for Biological Diversity

Additional signatories continued on next page.

David Pettit, Senior Attorney,
Climate & Clean Energy Program
Natural Resources Defense Council

Jan Victor Andasan, Community Organizer
East Yard Communities for Environmental Justice

Christopher Chavez, Deputy Policy Director
Coalition for Clean Air

Monica Mariko Embrey, Associate Director
Beyond Dirty Fuels Campaign
Sierra Club

cc: Stationary Source Committee Members,

Mayor Pro Tem Ben Benoit, Vice Chair (**bbenoit@cityofwildomar.org**)
Tricia Almiron, Board Consultant (**talmiron@aqmd.gov**)

Supervisor Sheila Kuehl, Vice Chair (**skuehl@aqmd.gov**)
Loraine Lundquist, Board Assistant/Consultant (**llundquist@aqmd.gov**)

Senator (Ret.) Vanessa Delgado (**vdelgado@aqmd.gov**)
Sara Hernandez, Board Assistant/Consultant (**shernandez@aqmd.gov**)

Board Member Gideon Kracov (**gkracov@aqmd.gov**)
Genevieve Amsalem, Board Consultant (**gamsalem@aqmd.gov**)

Vice Mayor Rex Richardson (**rrichardson@aqmd.gov**)
Matthew Hamlett, Board Consultant (**mhamlett@aqmd.gov**)

Supervisor Janice Rutherford (**supervisorrutherford@sbcounty.gov**)
Debra Mendelsohn, Board Consultant (**dsmgba247@gmail.com**)