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

Submitted electronically

Re: Phillips 66 comments on ARB's Proposed Low Carbon Fuel Standard Regulation Amendments

Clerk of the Board:

Phillips 66 Company appreciates the opportunity to submit comments on the Air Resources Board (ARB) Proposed Low Carbon Fuel Standard (LCFS) Regulation Amendments. Phillips 66 owns and operates refineries in California and also has pipeline, terminal and marketing operations in the state. We are a regulated entity under the LCFS regulations, so are directly impacted by these proposed changes. Phillips 66 is a member of the Western States Petroleum Association (WSPA) and support the comments provided by that Association. We have included some additional comments below on issues of specific significance to us or in areas that WSPA may not have addressed.

Annual Carbon Intensity Benchmarks

Phillips 66 recognizes that ARB is proposing near term changes in the 2019 and 2020 benchmarks, however, we believe the levels will still be extremely challenging. The 2018 data, as the year progresses, will be very informative, especially regarding credit balances and the drawdown of banked credits. The 2017 standard was a 3.5% reduction and it appears there may be a net deficit for full year 2017 (the 4th quarter data has not yet been posted). The benchmarks for 2018, 2019, and 2020 increase to 5%, 6.25% and 7.5% CI reduction from baseline respectively. These targets appear to be overly-aggressive, given the apparent difficulty in meeting the lower 2017 benchmark. It seems unlikely that credit generation will able to increase enough to overcome the changes in the benchmark (double the 2017 required percentage reduction by 2020). Further, given the challenges of meeting the near-term benchmarks, the 2030 target of a 20% carbon intensity reduction is even more daunting. We are concerned that these aspirational standards may continue to place ever-increasing costs on consumers, who already bear burdens from increased road taxes, cap and trade, RFS and other duplicative programs. We believe it essential that ARB review the program regularly and retain mechanisms to adjust, as necessary, to ensure the standards can be met.

Biomass-based Diesel

We do not agree with the proposed definition change for biomass-based diesel and believe there could be unintended consequences. The proposed definition is as follows:

> "Biomass-based Diesel" means a biodiesel (mono-alkyl ester) or a renewable diesel that complies with ASTM D975-14a, (2014), *Specification for Diesel Fuel Oils*, which is incorporated herein by reference. This includes a renewable fuel derived from co-processing biomass with a petroleum feedstock. However, biomass-based diesel should only include co-processed fuel to the extent that the co-processed renewable diesel is greater than 5 percent of the total diesel volume.

One minor suggestion to improve clarity is to reverse the wording in the first sentence. As currently worded, it can be read to say that both biodiesel and renewable diesel must comply with ASTM D-975. However, B100 must meet D-6751, per the biodiesel definition, and likely would not meet D-975. If it was worded "Biomass-based Diesel" means a renewable diesel that complies with ASTM D975-14a (2014) or a biodiesel (mono-alkyl ester), it would solve the problem.

The primary issue with the definition is the addition of the last sentence, which would mean that co-processed renewable diesel would only meet the definition of biomass-based diesel if the renewable portion was greater than 5% volume. The proposed addition creates numerous questions and creates potential problems.

- If a producer were to co-process less than 5%, how would the resulting product be defined or classified? Would it be considered diesel fuel or perhaps a diesel fuel blend? If it was classified as diesel, there would be no way to generate credits for the renewable portion of the product until the producer secured a provisional pathway (requires a minimum of 3 months operating data).
- If it is not biomass-based diesel, apparently the producer would not qualify for the temporary pathway in Table 8 for Biomass-based Diesel (65 CI for plant oil feedstocks). Would the only temporary pathway it would qualify for be the one described as "Any diesel substitute feedstock-fuel combination not identified above", which would be at the proposed modified 2010 ULSD baseline CI of 100.95? This is a HUGE difference (100.95 vs. 65) and would result in deficit generation for co-processed renewable diesel less than 5%.
- Some pipelines will not allow shipment of diesel containing greater than 5% renewable diesel. Also, FTC rules require separate labeling of diesel containing greater than 5% renewable diesel. These two factors might lead a producer to choose to limit the co-processed renewable diesel to 5% or less.

We ask that ARB remove the proposed sentence addition to the Biomass-based Diesel definition. It appears the current proposed language would not allow credit generation for the renewable portion until a provisional pathway was approved, and appears to generate deficits for this renewable volume. This seems punitive to entities who are working and investing to produce a renewable fuel that reduces the CI – the overall goal of the program. We would support either complete removal of the last sentence of the definition or language that clarifies that only the renewable portion of the resulting co-processed product would be classified as Biomass-based diesel (language proposed in the WSPA comments).

Generating and Calculating Credits and Deficits

Our industry prepares and submits required reports under many different state and federal regulations, involving millions of data points (production volumes, credit transactions, emissions, etc.). The reporting accuracy across the industry is very good, however, inadvertent errors do occur. When these happen, and are discovered, corrections are made. ARB is proposing to

continue to disallow positive adjustments in the credit and deficit balances due to corrections. We strongly disagree with this approach. We ask that ARB change these provisions to allow individual regulated entities to capture any credits or reductions in deficits due to reporting corrections.

Record Retention

ARB is proposing to increase the record retention requirement from 5 years to 10 years. In the ISOR, ARB discussion of the rationale for this change talks about the sampling plans developed by the verification bodies and the need for these to be updated and learnings used to provide improvements in the verification process. There does not appear to be any compelling reason to extend this increase in record retention period to regulated entities and we ask that ARB remove this proposed change as it pertains to regulated entities.

Annual verification requirement

The verification requirements, as outlined in the proposal, are very extensive and will be burdensome to regulated entities. There will also be an administrative burden for ARB due to the very large number of verifications, and the potential for needed actions because of the verifications (CI variances that affect credit balances, volume differences, etc.). We ask that ARB look at options to reduce these burdens by reducing the required verification frequency. This could be based on positive outcomes of the initial verifications. For example, a regulated entity that had an initial positive verification would be allowed to move to a less stringent schedule (e.g. every other year). Another example might be to allow combining the U.S. EPA required facility engineering reviews with the LCFS verification so that one verification body could complete both, and data gathered could be applied for both requirements (the EPA required this review every 3 years).

Provisional Pathways

Section 95488.9(c)(3) discusses adjusting CI and credit balance for provisional pathways and (c)(3)(A) and (B) address actions that will be taken by the Executive Officer based on whether the verified operational Cis are higher or lower than the provisional CI. Will the +/- 5% or 2 CI variance that is proposed for verification be applied here to determine whether adjustments should be made? It seems reasonable that the verified operational CI would only be considered higher or lower if it was outside these established tolerances.

Fuel Pathway Application Requirements

It is difficult to imagine every possible processing scenario that producers may look to implement and make pathway applications for. We ask that ARB look at providing flexibility to use engineering judgments and technically sound assumptions and calculations in lieu of absolute measurement for every process input. An example would be the language at 95488.6(a)(2)(D) which would require installation of automated metering equipment for a fuel production facility that is co-located. Installation of fully automated metering equipment may not be practical and could be expensive. Another approach would be to allow calculation of usage based on equipment information (motor horsepower ratings, etc.), especially in situations where the electricity usage is not a significant contributor to the overall CI value. We have not identified every section of the regulation where there might be opportunity to provide additional flexibility but believe that ARB staff would be familiar with the areas where these opportunities might present themselves. We want to ensure that the regulations provide some flexibility and ask for reasonable alternatives to some of the prescriptive requirements where the alternative would provide a sound technical approach.

Conclusion

We do appreciate the opportunity to comment and the interaction that has been afforded through the various workshops. Should you have any questions concerning these comments, please contact me.