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October 8, 2009

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

Via electronic submittal to: <http://www.arb.ca.gov/lispup/comm/bclist.php>

Re: **Low Carbon Fuel Standard (LCFS) – Second Notice of Modified Regulatory Text (September 23, 2009) - ConocoPhillips Comments**

Dear Clerk of the Board,

ConocoPhillips appreciates the opportunity to comment on this regulatory activity. ConocoPhillips is directly impacted as we will be a “regulated party” as defined by the regulation. ConocoPhillips owns and operates two refineries in the State of California. In addition, we have pipeline, terminal, and marketing assets in the State that distribute fuels produced at our refineries as well as petroleum/biofuel mixtures. We are a member of the Western States Petroleum Association (WSPA) and support the written comments submitted by WSPA.

ConocoPhillips has been engaged, and will continue to be engaged, throughout the regulatory development and modification processes. Our staff has participated in the workshop process, the “workgroup” process, participated in trade association (WSPA) meetings with ARB staff, has held individual private meetings with ARB staff, and has provided written comments at every regulatory milestone.

Regarding this “Second Public Availability Release”, ConocoPhillips appreciates ARB’s recent development of an LCA pathway for renewable diesel produced from tallow. ConocoPhillips also supports the proposed modification regarding the handling of product transfer documents (PTD’s).

However, ConocoPhillips remains concerned that many significant issues raised in earlier written comments by either ConocoPhillips or WSPA have not been adequately addressed. We do not re-raise all of those issues here but re-emphasize our previous comments and concerns about the promulgation timeline and allowance for due process in rulemaking while providing regulated parties an adequate timeline for compliance. Our concern is heightened in this aspect by the fact that there are less than 3 months until the regulation goes into effect - yet there remains no final rule that we, or other parties in the biofuels supply chain that we are dependent upon, may use to coordinate a responsible compliance response. Additional facts are that ARB is lacking in providing the necessary data and tools that we and others will be required to use to comply (most notably: look-up table values for high carbon intensity crude oil (HCICO); look-up table values for soy-based renewable diesel and biodiesel; and development/deployment of the mandatory electronic “Compliance Reporting Tool”).

In addition to the lack of look-up table values for high carbon intensity crude oil (HCICO) there is a lack of clarity in how to determine whether or not a crude oil is in fact a HCICO if it is not part of

the “baseline” California crude mix. ConocoPhillips requests that ARB provide lists of crude oils that are: 1) high carbon intensity and are not included in the California “baseline”; and 2) not high carbon intensity and are not part of the California “baseline”. These lists need to be more specific than merely defined by what country the crude was sourced from as some countries have multiple producing fields and production approaches with perhaps different carbon intensities.

Also, ConocoPhillips believes that section 95486(b)(2)(A)(2)(a) regarding the deficit calculation when HCICO is used is confusing and overly complex. ConocoPhillips recommends a simpler approach such as: taking a difference in carbon intensity (CI) of HCICO (expressed in gCO₂e/MJ); subtracting 15 gCO₂e/MJ (the “threshold” value); applying the percentage of HCICO used during the compliance period; applying a ratio of CARBOB to CARB diesel production; and adding the respective deficit (in gCO₂e/MJ) to the fuel standard for each fuel pool. This approach would also prevent possible confusion wherein different CARBOB’s and different CARB diesels may be perceived to have different CI values.

Thank you again for the opportunity to comment. Please feel free to contact me if you have questions regarding these or previous ConocoPhillips comments.

Sincerely,

<H. Daniel Sinks>

ecc: Bob Fletcher (CARB)
Dean Simeroth (CARB)