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July 28, 2011

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

Re: Comments on Supplement to AB 32 Functionally Equivalent Document (FED) dated June 13, 2011

ConocoPhillips submits these comments regarding the proposed AB 32 Scoping Plan and the Supplement to the AB 32 Scoping Plan Functional Equivalent Document (the "Supplement"), the latter of which was released on June 13, 2011 for public comment.

ConocoPhillips has significant operations in California including oil refineries, crude oil, and petroleum product pipelines, and terminals. As the third largest U.S. energy company, we also have important operations in other Western Climate Initiative states, throughout the U.S. and worldwide.

In addition to the specific comments provided here, ConocoPhillips does support comments submitted by the Western States Petroleum Association.

Because the 2008 Scoping Plan has been necessarily reopened, as noted in Section 1.0 of the Supplement, ConocoPhillips is submitting comments on the full Proposed Scoping Plan. CARB refers to the reopened AB 32 Scoping Plan as the "Proposed Scoping Plan", which is a naming convention ConocoPhillips follows in these comments.

CARB has used the benefit of time to update certain portions of the original Scoping Plan, including the use of updated emissions projections. Other portions have not yet been updated, despite the availability of similar updated projections and data. Using such currently-available data, CARB should evaluate the various measures in the Proposed Scoping Plan and those regulations being pursued under AB 32 in terms of meeting the objectives of the Proposed Scoping Plan. ConocoPhillips below notes several specific instances in which the Proposed Scoping Plan, and thus, subsequent CARB decision-making, would benefit from the use of currently-available data.

Further, it is not clear if the measures being pursued under AB 32 were chosen based on a cost versus benefit analysis. The measures described in the Proposed Scoping Plan should be analyzed and prioritized based on their ability to achieve the Proposed Scoping Plan objectives at the lowest cost.

The Proposed Scoping Plan ignores the High Carbon Intensity Crude Oil (HCICO) regulatory provisions that have been incorporated into the Low Carbon Fuel Standard (LCFS). Because HCICO was not included in the original Scoping Plan, the Board was unable to consider the environmental impact of HCICO, nor could it consider whether inclusion of HCICO in the LCFS regulatory scheme met the objectives of the original Scoping Plan. Also, the Board was unable to assess the economic impact of HCICO. As the HCICO provisions have developed and discussions with CARB have occurred regarding those developments, it has become clear that the potential adverse impacts of HCICO are more potentially significant than earlier anticipated. We urge CARB to include a thorough analysis of HCICO in the Proposed Scoping Plan and associated California Environmental Quality Act processes. Several detailed concerns are noted below.

1. **<u>Objective #12: Page 5 of the Supplement concerns "minimizing leakage"</u>**

   It is not clear in the Proposed Scoping Plan, Supplement, or subsequent regulatory action, if CARB has analyzed the potential for leakage that will likely result from implementation of the current HCICO approach in the LCFS. ConocoPhillips encourages CARB to evaluate removal of the HCICO provision from the list of preferred regulatory actions for implementation of AB 32 or to pursue alternative approaches that would minimize leakage per AB 32 and the Proposed Scoping Plan. The industry has recently shared data with CARB that provides examples of crude oil shuffling and the associated leakage that the HCICO provisions will encourage. It is also not clear if CARB has analyzed the potential for leakage due to biofuel shuffling under LCFS.

2. **<u>Objective #10: Page 5 of the Supplement concerns a "broad range of public benefits"</u>**

   Has CARB analyzed the impact of more expensive transportation fuels under LCFS, potential refinery shutdowns due to LCFS requirements, LCFS biofuel requirements, LCFS HCICO, and imports of intermediates/blendstocks/fuels from outside California? All of these have the potential to place a significant economic burden on the state of California due to higher transportation fuel costs that may not provide a corollary benefit to the public.

3. **<u>Objective #17 and #18: Page 6 of the Supplement concern "emissions impacts" and "preventing increases in other pollutant emissions"</u>**

   ConocoPhillips is concerned that Objectives #17 and #18 will not be met under the current approach for HCICO if crude shuffling results from implementation of that approach. The industry has recently shared data with CARB that provides examples of crude oil shuffling and the associated emissions increases that may result with the current HCICO. CARB is encouraged to review removal of the HCICO provisions and, if needed, consider alternative approaches that would directionally meet stated program objectives.

4. **<u>Section III. Evaluations, Part C: Cost Effectiveness of the Proposed Scoping Plan discusses the role of cost effectiveness in the development and adoption of regulations of this type</u>**

   CARB should revisit this section in light of the more recent data. With new data available, it is important to update cost information so that the Board will more fully understand the impact.

   Section 11346.3 of the Government Code requires State agencies to assess the potential for adverse economic impacts on California business enterprises and individuals when proposing to adopt or amend any administrative regulation. The assessment shall include a consideration of the impact of the proposed regulation on California jobs, business expansion, elimination or creation, and the ability of California businesses to compete with businesses in other states. ConocoPhillips is concerned that this requirement was not fully evaluated in this Proposed Scoping Plan and requests that CARB revisit this requirement, particularly with respect to LCFS and its currently evolved HCICO provisions.

5. **<u>Appendix I of the Proposed Scoping Plan: CARB determines that the LCFS will have no cost impact</u>**

   CARB should revisit this conclusion in light of the more recent experience in biofuel prices. It is also necessary for CARB to revisit the cost impact of LCFS because the analysis in the Proposed

Scoping Plan did not include the HCICO impact. With new data available and LCFS regulation expanded to include HCICO, it is important to update the cost so that the Board will fully understand the impact of the Proposed Scoping Plan measures.

We appreciate the opportunity to comment. If you have any questions regarding these comments, please contact Dan Sinks, Fuels Issues Advisor at 562-290-1521, Stephanie Williams, Manager of Government Affairs in our Sacramento office (as noted below), or me at any time.

Sincerely,

Chris Chandler
Manager, Los Angeles Refinery
ConocoPhillips Company

cc: Linda Adams, Secretary Cal-EPA
CARB Board Members
Mary Nichols, Chair, California Air Resources Board
James N. Goldstene, CARB Executive Officer

For further information, please contact:

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