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

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

Re: Notice of Public Hearing to Consider a the Low Carbon Fuel Standard (LCFS) – Phillips 66 Company Comments

Dear Clerk of the Board,

Phillips 66 Company (Phillips 66) appreciates the opportunity to provide these comments. Phillips 66 will be directly impacted by the by the "re-proposed" Low Carbon Fuel Standard (LCFS) regulations as we are a "regulated party" under the existing regulations and will continue to be a "regulated party" as defined by these proposed regulations. Phillips 66 owns and operates 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. We are a member of the Western States Petroleum Association (WSPA) and fully support the comments submitted by WSPA.

Phillips 66 has been engaged with CARB since the inception of the LCFS and throughout this and previous regulatory proceedings. Our staff has participated in the workshop process, participated in the "workgroup" process, held a seat on the LCFS Advisory Panel, participated in trade association (WSPA) meetings with ARB staff, has held individual private meetings with ARB staff, and has provided written comments on every regulatory proceeding.

Based upon our experience as a regulated party under the existing LCFS rules, we focus our comments in this re-adoption proceeding on three main topics:

- 1) the Compliance Schedule;
- 2) the Cost Containment Mechanism; and
- 3) LCFS Credit Generation from Refinery Projects.

Each of the three topics contains a Phillips 66 recommendation that we respectfully ask the Board to consider and subsequently then direct staff to reexamine their current proposals.

Compliance Schedule: Phillips 66 does not believe the compliance schedule proposed by staff is feasible or sustainable. The compliance scenario presented by staff over-estimates the near term credit build and is overly optimistic in the amount of time it will take to bring advanced fuels and vehicles to commercial scale. In the staff's own scenario, there are not enough annual credits to

cover deficits in the 2018/2019 timeframe (and beyond) and compliance is dependent upon a massive credit build in the early years (something that has not materialized).

The downside of adopting staff's unrealistic compliance schedule is that staff will continue to return to the Board every couple of years with amendments that "kick the can down the road" and do not address the fundamental issue of feasibility. Such an approach provides little in the way of regulatory certainty and makes planning business and investment decisions difficult (if not impossible) on the regulated parties. Phillips 66, therefore, respectfully asks the Board to direct staff to develop a realistic compliance schedule that is based upon reasonable forecasts of fuel availability, vehicle penetration rates, needed fuelling infrastructure build-out and is cost-effective.

Cost Containment – Credit Clearance Market: Phillips 66's believes that a cost containment mechanism is NOT a suitable replacement for a feasible regulation. Staff's proposed cost containment scheme, a Credit Clearance Market, contains an initial price cap on credits of \$200 per credit. The staff report lacks sufficient detail regarding how this cap or ceiling price was derived and we request that staff provide a basis and rationale for the \$200/credit.

In addition, under the proposal, participation in the credit clearance market is mandatory for parties who end the year in a deficit situation. Under the existing regulations, regulated parties are allowed to carry over a 10% deficit provided they "pay-back" those deficits the following year. There may be planning or operational reasons why a regulated party may wish to carry deficits from one year to the next. We request this provision remains in the regulation and that participation in the Credit Clearance Market be voluntary for those parties in deficit.

Staff evaluated various cost containment mechanisms before arriving at their recommendation to adopt the Credit Clearance Market. To our knowledge, staff did not evaluate the potential use of Cap & Trade credits for this purpose. Phillips 66 proposes that in lieu of adopting these proposed additional and complex regulations, the Board direct staff to instead allow Cap & Trade credits to be used for LCFS compliance in those circumstances where the Credit Clearance Market would otherwise be triggered.

LCFS Credits for Refinery GHG Reduction Projects Phillips 66 fully supports the ability to generate LCFS credits from refinery greenhouse gas (GHG) reduction projects. However, the proposed thresholds and restrictions risk eliminating many potential projects. We have identified the following elements that make the proposal problematic:

- a. Limiting onsite increases of air pollutants unreasonably excludes offsets of criteria and air toxic pollutants.
- b. The 0.1 gCO₂e/MJ threshold is too stringent: a "tons reduced" threshold should be allowed (this concept is proposed for "innovative crude recovery" so it is only equitable to add a comparable provision here).
- c. Investments should not be limited to capital or onsite projects.
- d. The biofeedstock 10% threshold is too restrictive and should be eliminated
- e. Application of a 50% discount in the number of credits for "less efficient" facilities serves as a dis-incentive. All reduction projects should be allowed full credit.

Phillips 66 respectfully requests the Board to direct staff to work with refiners to streamline the process and eliminate the barriers contained in the proposal.

Thank you for considering our comments. Please feel free to contact me if you have questions regarding our comments.

Sincerely,

<H. Daniel Sinks>