Shell USA
West Corporate Relations
1121 L Street, Suite 700

Sacramento, CA 95814

February 15, 2024

Ms. Rajinder Sahota
Deputy Executive Director – Climate Change and Research
California Air Resources Board
1001 I Street
Sacramento, CA 95814

Re: Shell USA, Inc. Comments on Proposed 2024 Low Carbon Fuel Standard Amendments

Dear Ms. Sahota,

Shell USA, Inc. (Shell) appreciates the opportunity to provide comments on the subject proposed amendments to the Low Carbon Fuel Standard (LCFS). Shell shares a legacy of energy innovation with California that spans over a century, and we appreciate CARB's commitment to incentivizing investments in clean energy. In addition to marketing traditional fuels and electric vehicle charging we deliver low-carbon fuels such as biofuels, renewable natural gas (RNG) and hydrogen. Shell and its affiliates provide secure energy today and look ahead to the evolving energy needs of California and the nation. We are proud to work with our customers and the state to provide a viable energy system that relies, in part, on the regulatory constructs including the LCFS.

Shell respectfully submits these comments for the purpose of helping develop a robust regulatory structure. As always, we welcome the opportunity to answer any questions you may have.

GENERAL COMMENTS

Intrastate Fossil Jet Fuel – More Needs to Be Done Before It Can Become a Deficit Generator

The proposed regulations require fuel importers and producers to determine (a) what is intrastate aviation and (b) how and where the purchasers (i.e. the airlines) consume jet fuel.

Fuel importers and producers cannot comply because in large part they aren't able to track where their jet fuel is consumed. Accordingly, fuel importers and producers cannot provide any information regarding what portion of their jet fuel is interstate vs. intrastate. Fuel importers and producers only know the amount of jet fuel delivered to storage facilities.

In our view, the language related to intrastate fossil jet fuel should be removed until these issues can be properly vetted.

Eliminate Limitations on Book-and-Claim Accounting for Hydrogen

As you know, Shell has been very active in developing hydrogen projects in the state, and we are concerned that limiting book-and-claim accounting for hydrogen will constrain growth. This undermines California's immediate need to significantly increase hydrogen as detailed in the 2022 Scoping Plan Update. The LCFS program includes CI benchmarks, and these should be used as the singular determining factor to drive CI reductions and the credit values.

Facilities with an EPA Pathway Should be Exempt from Additional Sustainability Criteria

Shell appreciates that the proposed amendments do not place arbitrary caps on crop-based feedstocks given that there is no evidence currently suggesting that these feedstocks are resulting in deforestation or adverse land use change. CARB's goal is to prohibit bringing new land into agricultural production for biofuel feedstocks. However, this is currently addressed in the EPA Renewable Fuel Standard. The EPA requires that crop-based feedstocks come from existing agricultural land cleared or cultivated prior to December 19, 2007. If the feedstock was grown outside the United States or Canada then the EPA will require entities to map and track to ensure that this requirement is met (See, 40 CFR 80.1454(c)). However, for feedstock coming from a crop grown in the United States or Canada, the EPA checks when it issues its Renewable Volume Obligation that the 2007 baseline amount of agricultural land in the United States or Canada has not been exceeded (See, 40 CFR 80.1454(g)).

Program Streamlining

The LCFS program has expanded over the years, and it is understandable that some inefficiencies have come about. For CARB and the State to reach its ambitions in a timely manner Shell recommends working with regulated entities to streamline the program. Like many other organizations Shell has a list of suggestions for improving the efficiency of the program that we would appreciate discussing at the appropriate time.

<u>SPECIFIC COMMENTS</u>

Below is a list of items related to the updated regulation language for consideration.

<u>Section 95486.1 Generating and Calculating Credits and Deficits Using Fuel Pathways</u>

Subparagraph (g): This section essentially punishes operations by way of a four- or five-to-one deficit for inaccurately predicting CI over a 24-month period. Shell urges CARB to reconsider the severe deficit requirement for pathway holders that exceed their CI in a 24-month period. This new obligation would cause a punitive deficit four times the amount of the annual excess CI generated plus an invalidation of excess credits, effectively resulting in a penalty of five times the amount of the annual excess CI generated. This scheme punishes operations and will deter investment in clean fuels development.

<u>Section 95486.3 Generating and Calculating Credits for ZEV Fueling Infrastructure Pathways</u>

Subparagraph (a) Medium- and Heavy-Duty Hydrogen Refueling Infrastructure (MHD-HRI) Pathways: Here, Shell merely seeks clarification.

With regard to subparagraph (D)(1) Shell asks that CARB confirm that this only applies when subparagraph (D) is met. In other words, "Any station built as a required mitigation measure pursuant to the California Environmental Quality Act...is not eligible for MHD-HRI crediting" if it "is permitted to operate prior to January 1, 2022, or..."

Subparagraph (4)(F): This language needs some flexibility because it does not account for the reality that operators, despite good faith efforts, may not be able to comply with the 24-month operability requirement[1]. Shell requests a mechanism to seek a variance or waiver from the Executive Officer from the 24-month operability requirement for good cause shown.

Section 95488.6 Fuel Pathway Application Requirements and Certification Process

The Tier 1 Calculator for Hydrogen is a valuable addition to the program for both applicants and CARB staff as it reduces complexity and time. Shell asks that the calculator include "process energy," displacing natural gas, for book-and-claim. If it isn't included, this will force applicants to submit a Tier 2 pathway to get credits for the process energy utilized, which is counter to the goal of promoting low CI fuels.

Section 95488.10 Maintaining Fuel Pathways

Subparagraph (b): Shell is concerned with the language, "the Executive Office *may* perform credit true up" and requests this is changed to "*shall* perform." Further, the language should be clear that credit true ups go back to a facility's startup date and include the approval of both temporary and provisional pathways from startup. Clarity and certainty regarding the rules are important to encourage investments needed to achieve implementation of the important low carbon fuels infrastructures.

Appendix B: CA-GREET4.0 Supplemental Document - Modifications Incorporated in CA-GREET 4.0

A backhaul energy intensity was added to ocean tanker transport for Brazilian sugarcane. The language indicates this is based on data provided by fuel suppliers; however, this does not apply to all fuel suppliers. Shell requests that pathways should determine whether a backhaul is included and this can be confirmed through the verification process.

In conclusion, Shell appreciates the opportunity to engage in the LCFS rulemaking. It is more important than ever that the state maintains its leadership in the clean energy space as other states actively seek to adopt similar programs. Stabilizing the market and careful consideration to changes are critical to continued success of the LCFS program. Thank you for your consideration of our input and thank you for your hard work and leadership of this important program.

Sincerely,

Steve Lesher/dam

Steve Lesher
Manager of Corporate Relations, U.S. West Coast
Shell USA, Inc.

---

[1] It has been Shell's experience in building and operating both light-duty and heavy-duty stations there are certain conditions that are beyond the control of the operator. For example, local permitting delays, unavailability of renewable hydrogen, etc.