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VIA Email

Mr. Greg Stone (NewRules@baaqmd.gov)
Supervising Air Quality Engineer
Bay Area Air Quality Management District
375 Beale Street, Suite 600
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RE: Phillips 66 Company: Comments on BAAQMD's Draft Amendments to Regulation 2, Rules 1, 2 and 6

Mr. Stone:

Phillips 66 Company (Phillips 66) provides these comments regarding the draft amendments to Regulation 2 Rule 1, Rule 2 and Rule 6 ("Reg 2-1", "Reg 2-2", "Reg 2-6") proposed in May, 2017.

In addition, Phillips 66 supports and adopts the comments of the Western States Petroleum Association (WSPA) submitted on June 26, 2017.

The District is proposing a set of minor, administrative changes to the NSR rules, together with two very significant substantive changes to the rules. The need to quickly implement the minor, administrative changes to the NSR rules in order to comply with EPA's findings should not be the driving force behind the timing of the proposed NSR amendments relating to crude slate changes and GHG BACT thresholds. The crude slate and GHG BACT proposals are unlike the minor administrative changes being proposed and require more stakeholder engagement and review. The crude slate and GHG BACT proposals should not be arbitrarily held to the schedule dictated by EPA for inclusion of the minor administrative NSR changes. Therefore, the crude slate and GHG BACT proposals should be considered in a separate rulemaking effort from the current one for the administrative NSR rule changes.

The California Environmental Quality Act ("CEQA") requires that the District's Environmental Impact Report for the project consider the entire project. As you are aware, the CEQA Guidelines define a "project" to be the whole of an action, which in this case includes all regulations associated with Board Resolution 2014-07 targeting emissions reductions from refineries. The District should prepare an EIR for the proposed changes to Reg 2-1 and 2-2 that will also review and compare the cumulative impacts of these rules with the recently adopted and planned rules which are part of a suite of regulations identified by the District as the Petroleum Refinery Emissions Reduction Strategy.

The basis for the significant crude slate change ("crude slate") amendments to Reg 2-1 is described in the Workshop Report as a "concern" that refineries "may be changing their crude slates in a way that constitutes a "modification" without applying for or obtaining" the proper permits. The District claims

that modifications to crude slate may be difficult or impossible to discover and thus, it is necessary to add the proposed crude slate amendments to Reg 2-1. On the contrary, if a modification, as that term is defined in Reg 2-1, was made as a result of a change in crude slate by definition one of two things would have to occur which would be readily identifiable by the District; either an increase in emissions at any permitted source above current permitted limits, or a significant increase above actual emission levels. First, an increase above currently permitted limits would be immediately noticed by the District because it would be a violation of the refinery's operating permit. As the District is aware, as Title V facilities, the refineries would be required to report any such increases above permitted limits within 10 days. Second, a significant increase in emissions above actual emission levels for these purposes is an increase of at least 100 tons per year (tpy) of CO, 40 tpy of NOx, VOC or SO2, 15 tpy PM10, or 10 tpy of PM2.5 or H2S. Again, an increase of these levels at any one source or combination of sources would be easily identified by BAAQMD as part of the Reg 12-15 Emission Inventory process.

In addition to any crude slate modifications being readily identifiable currently by the District, the current versions of Reg 2-1 and Reg 2-2 are already designed to require permits if any change in crude slate were to trigger a modification or alteration as currently defined. The District has no proof to justify the "concern" that the refineries are currently making modifications to the facilities without following the requirements of Reg 2-1 and Reg 2-2.

Further, the District has not established a correlation between changes in crude slate and emission increases. There is no data or justification in the material provided in support of the amendments that demonstrates a causation or relation between crude slate parameters and emission increases. Again, even if the District had shown or demonstrated (which they have not) that changing crude slate will result in an increase in emissions, as explained above, the increases would be readily apparent as violations of existing limits, or as increases in emissions reported in the Reg 12-15 emission inventories.

Therefore, based on the issues noted above, there is no basis for the proposed amendments in Reg 2-1 related to the significant crude slate change.

Regardless of the merits of including the crude slate changes in Reg 2-1, there are several issues with how it is implemented in the regulation. The procedure used to define crude slate in proposed Reg 2-1-243 is fundamentally flawed. Internal review of Phillips 66 data indicates that there are already instances where historical monthly crude slate values (i.e., crudes that have already been processed at the refinery) would qualify as a significant crude slate change. The District is assuming that their methodology of using the mean of monthly values from 2013-2016 plus three standard deviations (sigmas) will include all of the historical monthly values from that period and include all "normal fluctuations" in values. However, the three sigma methodology does not include all of the monthly values from 2013-2016. Therefore, the District needs to develop another method to define the significant crude slate change that is statistically accurate.


In addition, the baseline period of 2013-2016 is completely arbitrary and does not adequately reflect the refineries current and historical range of crudes that could be processed. The District should include additional years in the baseline period.

Reg 2-1 has been modified to define significant crude slate changes as alterations requiring an Authority to Construct per Regulations 2-1-233 and 2-1-301. The District should provide guidance in the regulation that actions taken by the District pursuant to significant crude slate changes are defined as ministerial projects for CEQA purposes.

Based on the workshop report and staff comments at the workshop, the goal of the proposed crude slate amendments is to review long term significant changes in the crude slate, not short term. Therefore, the District should modify the proposed amendments to include consideration for 'outliers' in the monthly crude slate data where just a single month is forecast to be a 'significant' change to the crude slate. To be defined as significant, a change must occur for more than six months. For example, the District could define a significant crude slate change as being a change that is forecast to continue for more than six months. As written, the District would require permits for instances where just a single month may be a 'significant' change, but after that month the crude slate is back to 'normal'. As staff have stated at the workshop, the District's amendments are not focused on short term fluctuations in crude slate, but longer term changes and the proposed amendments should be altered to reflect this goal.

If you have any questions regarding these comments, please contact me at (510) 245-5825.

Sincerely,



Don Bristol
Environmental Superintendent

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