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July 15, 2022

Mr. Joshua Grice, Rulemaking Lead
Air Quality Program
Washington State Department of Ecology
P.O. Box 47600
Olympia, WA 98504-7600

RE: Comments Regarding Rulemaking for Chapter 173-446 WAC, Washington Climate Commitment Act (“CCA”) Program

Dear Mr. Grice,

HF Sinclair Corporation (HF Sinclair) is a diversified, innovative energy company that manufactures and sells products such as gasoline, diesel fuel, jet fuel, renewable diesel, specialty lubricant products, specialty chemicals, and specialty and modified asphalt, among others. We are proud to be part of Washington’s economy following our acquisition of the Puget Sound Refinery in November 2021. In addition to our capability to process nearly 700,000 barrels/day in our refineries located in Kansas, Oklahoma, New Mexico, Utah, Wyoming and here in Washington, HF Sinclair’s growing renewables business operates three production facilities that can produce approximately 380 million gallons of renewable diesel annually making HF Sinclair the second largest producer of renewable diesel in the United States.

HF Sinclair appreciates the opportunity to comment on the subject rulemaking, Chapter 173-446 WAC. We support market-based programs when designed well, and support the detailed comments being provided separately by Western States Petroleum Association that thoroughly describe concerns about the program and the potential for significant issues it could create for the State.

HF Sinclair would like to take the opportunity to share further perspective on points in this rulemaking process. First, we appreciate and support your plan to make immediately available on a vintageless basis the full quantity of Allowance Price Containment Reserve (“APCR”) allowances from the first two compliance periods. This is a critical addition to the program, as it helps ensure that covered entities have confidence of an adequate initial supply of allowances at the time of program launch. HF Sinclair also appreciates the provision of an additional auction for APCR allowances that has been programmed into the rule, as this provides another opportunity for covered entities to obtain allowances needed for program compliance.

Unfortunately, the holding limits proposed in WAC 173-446-150(2) unnecessarily constrain the ability of larger covered entities to comply. Because the holding limit is not scaled to the size of



the covered entity¹, a covered entity with an annual obligation of 5,000,000 tons is limited to holding the same number of allowances as a covered entity with an obligation of only 50,000 tons. This is simply illogical. A more sensible approach would be to allow a covered entity to hold a multiple of its previous year's compliance obligation. Such a limit could justifiably be set for the duration of a 4-year compliance period, or a 4x multiplier. This would provide covered entities the same flexibility for compliance. If the Department of Ecology ("Ecology") desires to maintain the existing cap as a minimum for all market participants – which again is extremely liberal for most covered entities² – this could be done by establishing a limit that is the greater of the formula in the proposed rule or a multiplier approach based on a covered entity's actual emissions, as described here. This is within Ecology's authority: RCW 70A.65.090(7)(b) and RCW 70A.65.150(1) require that Ecology set "holding limits" by rule, but the statute does not specify how the holding limits are to be determined. .

As a leading renewable diesel producer in the U.S., HF Sinclair urges Ecology to clarify how biofuels are addressed in the program. While it seems that Ecology's intent is that all fuels that qualify for RINs under the U.S. Environmental Protection Agency's Renewable Fuel Standard are exempt, the proposed rule language on this point is ambiguous and needs to be more specific. For at least the first compliance period, we request that all renewable fuels in the RFS program are exempt from the program. This allows time for Washington to address how the CI is measured for the program, as well as methodology for reporting emissions from biofuels. Failure to do this leaves serious ambiguity to both pathways to compliance for fuel suppliers as well as compromises the ability to calculate the baseline that Ecology must establish for the program.

Finally, we support the stated intent in the enabling legislation for this program to link with other jurisdictions.³ Cap and Invest programs allow the market to achieve the most efficient carbon reductions, and thus meet ambitious climate goals with the least disruption to consumers. Linkage with other programs allows the most cost-effective greenhouse gas reductions to be realized and ensures real carbon reductions across these markets in lieu of the necessity to sell Price Ceiling Units beyond the annual cap. HF Sinclair urges Ecology to enter into such linkage agreements as early as possible, to provide the market the important direction and confidence from such decisive action on this topic.

HF Sinclair appreciates the opportunity to provide these comments on the Climate Commitment Act Program. We look forward to working with Ecology on this, as well as other rulemaking

¹ <https://ecology.wa.gov/DOE/files/4f/4ffb375b-2bec-4b66-afb3-9b613645896e.pdf>, accessed June 2022. See WAC 173-446-150(2).

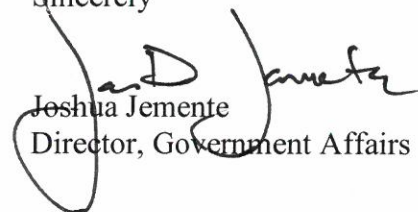
² <https://data.wa.gov/Natural-Resources-Environment/GHG-Reporting-Program-Publication/idhm-59de/data> accessed June 2022. Per this dataset, emissions of the median-sized covered entity in the program are in the range of 100,000 ton/yr. So, the initial holding limit, which is slightly over 4 million allowances, would allow the median-sized covered entity to immediately hold allowances to cover its emissions for the duration of the program through 2049, as currently defined.

³ <https://app.leg.wa.gov/RCW/default.aspx?cite=70A.65.210>, accessed June 2022. See (1).



activities in Washington State in the future. If you have any questions, please reach out to me via email at joshua.jemente@hfsinclair.com or by phone at 214-954-6693.

Sincerely


Joshua Jemente
Director, Government Affairs