



State of Oregon Department of Environmental Quality

Written Comments

Dec. 1, 2020, Clean Fuels Program Electricity 2021
Rulemaking Advisory Committee Meeting

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ChargePoint, Inc.
254 East Hacienda Avenue | Campbell, CA 95008 USA
+1.408.841.4500 or US toll-free +1.877.370.3802

December 3, 2020

Oregon Department of Environmental Quality
700 NE Molnomah St, Suite 600
Portland, OR 97232

Comments in Response to Dec 1 Fiscal and Economic Analysis RAC Meeting and Draft Proposals

ChargePoint would like to thank DEQ Staff for hosting this series of RAC meetings and providing helpful background materials and key questions for consideration.

ChargePoint is one the world's largest electric vehicle charging network with more than 115,000 Level 2 electric vehicle (EV) and direct current fast charging stations. ChargePoint's customers include major employers, municipalities, universities, utilities, real estate developers and parking garage facility owners and operators that provide EV charging and related services to EV drivers.

Incremental Credits

In response to comments voiced in the December 1 RAC meeting in support of a centralized approach to incremental credit generation (residential and non-residential) where a DEQ-appointed aggregator would collect all incremental credits in the market and reinvest the proceeds, we caution against this model and highlight that such an approach would represent a fundamental shift away from the core principle of clean fuels standards, that is, to reward entities investing in clean fuels (or in this case deploying charging infrastructure) by issuing those entities credits. It is by this market signal and the alignment of costs (investment in clean fuels) and benefits (the credit) that in markets where clean fuels standards exist today, we are seeing an acceleration in the shift in investment away from traditional fossil fuels and into alternative low-carbon fuels^{1,2}. By appropriating and centralizing incremental credits in the hands of a single aggregator – unaffiliated with the actual investment or clean fuel (or in this case infrastructure) – the market signal that the incremental credit is designed to send will be voided.

A centralized approach can make sense for residential charging due to administrative barriers (issuing a small number of credits to tens of thousands of EV drivers is not be feasible), however, those same barriers do not exist in the non-residential sector. A key design trait of clean fuels standards is the way in which the program incentivizes upstream innovation and technology transformation^{3,4,5,6}. The mechanism that drives this innovation and low-carbon technology adoption is the assurance that the entity making the investment will earn the credit,

¹ McGurty, Janet. (2020). 'Evolve or die: US refiners grasp renewables lifeline to stay viable'. *S&P Global*. Nov 4 2020. <https://www.spglobal.com/platts/en/market-insights/latest-news/oil/110420-evolve-or-die-us-refiners-grasp-renewables-lifeline-to-stay-viable>.

² Presentation by Jim Duffy, CARB Transportation Fuels Branch Chief, at 2019 OPIS LCFS and Carbon Markets Workshop (contact Evan for presentation materials).

³ Nentjes, A., F. P. de Vries, and D. Wiersma. 2007. Technology-Forcing through Environmental Regulation. *European Journal of Political Economy* 23(4): 903–16.

⁴ Bergek, A., and C. Berggren. 2014. The Impact of Environmental Policy Instruments on Innovation: A Review of Energy and Automotive Industry Studies. *Ecological Economics* 106: 112–23.

⁵ Klier, T., and J. Linn. 2016. The Effect of Vehicle Fuel Economy Standards on Technology Adoption. *Journal of Public Economics* 133(C): 41–63.

⁶ Yeh, Sonia, D. Burtraw, T. Sterner, and D. Greene. 2020. Tradable Performance Standards in the Transportation Sector. Resources for the Future. Working Paper 20-18.



ChargePoint, Inc.

254 East Hacienda Avenue | Campbell, CA 95008 USA
+1.408.841.4500 or US toll-free +1.877.370.3802

therefor justifying the original investment. Should DEQ decide to centralize the aggregation of all incremental credits, that assurance – and associated investment – will be lost. We instead urge DEQ to allow the (base) credit generator under the existing regulation to generate the incremental credit for non-residential charging.

Equity Advisory Committee

ChargePoint supports the formation of an advisory committee to inform targeted reinvestment of certain credit proceeds in a way that benefits impacted communities. Determining reinvestment goals and priorities via stakeholder input and committee consensus may be preferable to overprescribing reinvestment criteria under a fixed criteria approach. As the market evolves, different needs and priorities will emerge, and a committee-based approach will be more responsive to the market, as opposed to a set of fixed criteria. It will be important that any such committee include industry stakeholders, in addition to equity stakeholders, to provide input regarding technical feasibility, sustainability, and overall cost effectiveness. The aim of the committee should be to design programs for long-term sustainability and compounding benefits (i.e. the reinvestment will not just result in one-off benefits but benefits to communities that are self-sustaining and multiplicative and do not solely rely on continued investment).

Thank you for considering our comments. We look forward to continued participation in the Electricity 2021 Rulemaking.

Sincerely,

A handwritten signature in black ink that reads "Evan Neyland".

Evan Neyland
Manager, Clean Fuels Programs

December 7, 2020

Cory Ann Wind
Oregon Department of Environmental Quality (DEQ)
700 NE Multnomah Street, Suite 600
Portland, OR 97232-4100

Emailed: wind.cory@deq.state.or.us

Subject: **Comments on The Clean Fuels Program Electricity 2021 Rulemaking
Relating to Biogas Cogeneration at the Gresham WWTP**

Dear Ms. Wind,

The City of Gresham provides wastewater treatment at our Wastewater Treatment Plant (WWTP) located at 20015 NE Sandy Blvd, Portland, Oregon for approximately 120,000 residents of the greater City of Gresham in the eastern portion of Multnomah County, Oregon. The City of Gresham is committed to sustainable operation of the WWTP and operations to minimize emissions and maximize on site generated electricity from biomass generated biogas. We are committed to doing the right thing for the environment in a cost-effective manner as reflected by the fact that our WWTP has been producing cogeneration power since 1987 and has been energy “net zero” since 2015 when we began accepting fats, oil and grease deliveries, generating more electricity on site than it consumes. We are considering expanding our digestion capacity to allow for processing of additional fats, oils and grease and slurried food waste from the region diverted from landfills. The proposed project would use the digester gas (biogas) to produce additional cogeneration electricity and heat for the WWTP and would produce a surplus of electricity to the grid. We are interested in producing even more renewable electricity at the Gresham WWTP and decreasing pollution from transportation fuels used in Oregon.

Please accept the following comments regarding the above-referenced rulemaking, which supplement our comments provided in a previous letter dated October 30, 2020.

Comment 1: Remove Efficiency Adjustment Factor for Biogas to Electricity Pathways

Section 340-253-0470 (6) of the draft DEQ rules state that:

“DEQ may adopt an efficiency adjustment factor for biogas to electricity pathways that include emissions reduction credits in order to maintain the program’s incentive for energy efficiency”

The City requests that the DEQ not impose an efficiency adjustment factor for biogas to electricity pathways like that being operated and potentially expanded at the Gresham WWTP. We believe this proposed language runs counter to the intent of Executive Order 20-04 which is focused on accelerating generation of credits for transportation electrification in the goals of SB 1044. This language would essentially penalize biogas cogeneration electricity projects at Oregon Wastewater Treatment Plants and other biomass anaerobic digestion projects by providing significantly fewer credits than RNG pipeline injection projects. These cogeneration projects also have the added benefit of thermal production credits like the Gresham WWTP had approved in 2018 by the State of Oregon for its current cogeneration system. In addition, the proposed rule

indicating that DEQ "may" impose reduced credits makes it extremely difficult for the City to plan for future investment in renewable energy projects.

Comment 2: Remove 2015 In-Service Date Requirement

The City requests that DEQ remove the 2015 in-service date requirement and allow eligibility for RECs originating from the Western Electric Coordinating Council (WECC) region, instead of only allowing RECs from certain projects in Utah, Wyoming, and Idaho (PacifiCorp-East balancing authority area). This approach would provide more equitable access for all participants to RECs for Low-CI electricity and aligns the CFP with the Oregon renewable portfolio standard ("RPS").

Comment 3:

Section 340-253-0470.5.a of the draft DEQ rules state that:

"(a) Renewable Energy Certificates (RECs) retired in order to claim a carbon intensity other than the statewide mix or utility-specific mix must be certified by Green-e."

The City supports requiring that a renewable electricity tracking system be used to retire RECs, but requiring RECs to be Green-e certified appears to be adding redundant administrative requirements. As far as we know, no other Renewable Portfolio Standard (RPS) requires Green-e certification. We encourage the CFP to align with the Oregon RPS.

The CFP should equitably recognize the climate benefits of biogas electricity and RNG as transportation fuels, not favor one end-use over another. Oregon's CFP should create an equal playing field for both fuel types and technologies allowing the markets to decide the most appropriate use of biomass and biogas energy projects.

Thank you for providing the opportunity to review and comment on the Clean Fuels Program Electricity 2021 Rulemaking Implementing Section 4B of Governor Kate Brown's Executive Order 20-04. We are looking forward to seeing the proposed rules in Spring 2021. Please contact me if you need any additional information.

Sincerely,



Alan Johnston, P.E.
Senior Engineer
WWTP Program
Department of Environmental Services
City of Gresham

CleanFuture, Inc.
P.O. Box 23813
Portland, OR 97281-3813
office: +1 503 427-1968

December 8, 2020

Cory-Ann Wind
Oregon Clean Fuels Program Manager
Oregon Department of Environmental Quality
800 NE Oregon Street
Portland, OR 97232
Comment Submitted via email to cfpe2021@deq.state.or.us

RE: Comments on Clean Fuels Program 2021 Electricity Rulemaking and Proposed Requirements on Biogas to Electricity Pathways

Dear Ms. Wind,

CleanFuture appreciates the opportunity to provide written comments to the Clean Fuels Program (“CFP”) 2021 Electricity Rulemaking (“Electricity Rulemaking”). This letter provides comments highlighting the resulting decrease in both credit generation and revenues for electric vehicle (EV) applications that would result from implementation of a subset of the draft rules. Decreased credit generation increases the cost of operating electric vehicles and as a consequence, decreased credit generation also increases the cost of reducing GHG emissions and makes it more difficult to meet aggressive GHG emission reduction targets. As a result of these foreseeable outcomes, CleanFuture would like to emphasize that the draft rules discussed in this comment letter run counter to Executive Order 20-04¹ in several important respects:

- Regarding the General Directives to State Agencies, Agency Decisions, the Executive Order provides that agencies are directed to “Prioritize actions that reduce GHG emissions in a cost-effective manner (...)”
- Regarding the Directives to the Environmental Quality Commission and the Department of Environmental Quality, EQC and DEQ are directed to amend the low carbon fuel standards, “with the goal of reducing the average amount of GHG emissions per unit of fuel energy by 20 percent below 2015 levels by 2030, and 25 percent below 2015 levels by 2035.”

To better follow the directives of the Executive Order, CleanFuture recommends that DEQ make the following changes to the draft rules:

1. Eliminate the efficiency adjustment factor for biogas to electricity pathways,
2. Expand eligibility to qualifying projects with in-service dates after 2000, and
3. Provide eligibility for projects within the Western Electricity Coordinating Council.

¹ https://www.oregon.gov/gov/Documents/executive_orders/eo_20-04.pdf

4. Treat biogas to electricity projects in a comparable manner to the use of RNG as a transportation fuel.

Recommendation #1: Eliminate the efficiency adjustment factor for biogas to electricity pathways.

DEQ proposal: “DEQ may adopt an efficiency adjustment factor for biogas to electricity pathways that include emissions reduction credits in order to maintain the program’s incentive for energy efficiency.”

Besides increasing the cost of reducing GHG emissions and making it more difficult to meet aggressive GHG emission reduction targets, this draft rule will decrease credit generation from transportation electrifications which runs counter to E.O. 20-04(4)(B):

“The EQC and DEQ are directed to advance methods accelerating the generation and aggregation of clean fuels credits by utilities that can advance the transportation electrification goals set forth in Senate Bill 1044 (2019).”

An efficiency adjustment factor as proposed penalizes biogas-to-electricity pathways relative to biogas-direct pathways, and therefore impedes instead of advances the transportation electrification goals set forth in SB 1044. Disincentivizing biogas-to-electricity pathways will eventually impede E.O. 20-04 directives to other agencies as well, including (8)(C) “GHG Reduction Goals and Electrification Goals” for the Department of Administrative Services, and (10)(A) further directing support of electrification under SB 1044 for the Oregon Department of Transportation.

Biogas-direct and biogas-to-electricity both offer an important avoided methane emissions benefit; this benefit should be equally realized for both pathway types. By deliberately discounting credits and revenues to biogas-to-electricity, DEQ’s proposed efficiency adjustment factor as written could lead to the unintended consequence of Low-CI Electricity projects ceasing to operate once their Power Purchase Agreements (PPAs) run out, and/or encouraging these projects to shift away from electricity generation to instead deliver RNG to combustion vehicles. Again, this is contradictory to goals of increasing credit generation in electric vehicles and decreasing GHG emissions quickly and cost-effectively.

In addition, the proposed language is written in a vague manner, i.e., “DEQ may adopt an efficiency adjustment factor for biogas to electricity pathways (...).” This indication of DEQ’s possible intention to discount crediting in the future sends a negative signal to the market regarding the availability of credit revenues to the support the economics of the project. This type of uncertainty can severely undercut the feasibility of financing a biogas electricity project by introducing significant uncertainty from a project finance perspective.

Because of these factors, we recommend DEQ not impose an efficiency adjustment factor for biogas to electricity pathways. If DEQ remains convinced that an efficiency adjustment factor is a necessary program component, then CleanFuture recommends that DEQ undertake an

independent evaluation of whether there is commercially available and financially feasible technology to meet the standard that underlies the adjustment factor.

This technical issue was addressed in comment letters submitted in response to CARB's LCFS Guidance 19-06 with informed commenters submitting real world evidence demonstrating that a 50% benchmark efficiency standard is an unrealistic level.² In particular, the attached Exhibit A comment by Maas Energy Works provides a comprehensive analysis of the technologies referenced to establish the efficiency standard, and the current state of commercially available technologies for smaller dairies. The salient points from the Maas Energy Works comment regarding technological feasibility, and cost-effectiveness are:

- Combined cycle natural gas plants do not provide any foreseeable feasible use for biomethane from small biogas projects and therefore do not provide a relevant point of reference for this efficiency standard,
- Solid oxide fuel cells are not commercially available for use at smaller biogas projects and are cost-prohibitive and therefore will not provide a relevant reference point for an efficiency standard for at least five years.

To summarize, CleanFuture recommends no efficiency adjustment factor be established at this time in the CFP. In the event that DEQ does set a standard, it should establish an efficiency adjustment factor at 37% for biogas generators. Oregon's efficiency standard should not exceed 37% until such time as a California or Oregon biogas facility has *demonstrated higher* real-world efficiencies, with comparable up-time, for a 24-month period necessary for a certified LCFS or CFP pathway. Once that occurs, DEQ should consider making the demonstrated efficiency the new standard thereafter, perhaps with a phase-in period or small-project exemption.

Recommendation #2: Expand eligibility to qualifying projects with in-service dates after 2000.

DEQ proposal: "(b) RECs must be generated by an electric generator that was placed into service after 2015."

Response: We recommend electric generators placed in service after 2000 be eligible in the Clean Fuels Program.

There are 21 biogas renewable electricity facilities within the State of Oregon, all of which came into service prior to 2015 and would therefore be considered ineligible under the Oregon CFP's currently proposed rules.³ These facilities serve as critical components in sustainable and secure agricultural, industrial, and municipal waste management ecosystems by reducing nutrient runoff, enhancing soil quality, and most importantly capturing, destroying, and thereby avoiding fugitive methane emissions in a beneficial manner to produce electricity. It is in the

² LCFS Guidance 19-06, available at https://ww2.arb.ca.gov/sites/default/files/classic/fuels/lcfs/guidance/lcfsguidance_19-06.pdf

³ Oregon Department of Energy Comments HB2449: <https://olis.leg.state.or.us/liz/2015R1/Downloads/CommitteeMeetingDocument/68985>

State of Oregon’s interest to protect and support these biogas producers that are providing a climate benefit from methane destruction. The rule as written could result in some projects ceasing to operate once their PPAs run out, and/or encouraging these projects to shift away from electricity generation to instead deliver RNG to combustion vehicles. Again, these outcomes are contradictory to goals of increasing credit generation in electric vehicles and decreasing GHG emissions quickly and cost-effectively.

Recommendation #3: Provide eligibility for projects within the Western Electricity Coordinating Council.

DEQ proposal: “(c) RECs must be generated within a balancing authority area that includes a portion of the state of Oregon, as recognized by the North American Electric Reliability Corporation, or that the electricity from the generating facility is delivered to one of those balancing authorities on a real-time basis without shaping, storage, or integration services, or in the PacifiCorp-East balancing authority area.”

Response: We recommend DEQ allow renewable electricity using RECs from generators originating from the Western Electric Coordinating Council (WECC) region, instead of just allowing RECs from certain projects in Utah, Wyoming, and Idaho (PacifiCorp-East balancing authority area).

CleanFuture proposes this alternative approach to allow more equitable access for all participants to use RECs from renewable electricity and better aligns the CFP with spatial requirements of the Oregon renewable portfolio standard (“RPS”). By expanding the eligible sourcing area for projects, there will be more market competition to supply the Oregon CFP market. An expanded approach is likely to result in lower prices per REC, thereby reducing the cost of GHG emissions under the CFP, and making more feasible the more aggressive carbon intensity reduction targets established by the Executive Order. A more cost-effective GHG option exists by expanding REC eligibility for RECs produced throughout the WECC vs. the current proposals by DEQ in restricting geographic REC eligibility.

Recommendation #4: DEQ should treat biogas to electricity projects in a comparable manner to the use of RNG as a transportation fuel.

Further, we encourage DEQ to consider the rationale for differential treatment of projects that use biogas to generate electricity versus upgrading biogas to RNG for use as a transportation fuel. There does not seem to be a logical reason why waste-derived RNG projects from across the United States can receive credit for avoided methane emissions in Oregon’s Clean Fuels Program while renewable electricity projects using biogas are geographically restricted. Oregon has already approved pathways that credit renewable natural gas produced in the other side of the country as delivered to Oregon for Clean Fuels Program purposes. Electricity produced from biogas should receive similar treatment as the RNG pathways approved for Oregon’s Clean Fuels Program as shown in examples in Exhibit 2.

DEQ should align its proposed geographic eligibility for renewable electricity produced from biogas with the current CFP eligibility allowed for renewable natural gas produced from biogas. Currently, renewable natural gas produced throughout the country is eligible in the Oregon CFP. In nature, these renewable fuels are identical in the sense that the environmental attributes of these transportation fuels are matched with vehicle use. Currently there is no renewable natural gas used in the State of Oregon derived from in-state sources, and is all sourced from out-of-state locales. As portrayed in Exhibit 2, renewable natural gas currently deemed eligible for use in Oregon's CFP is produced in Texas, Illinois, Michigan, Ohio, as well as Pennsylvania, New England, and Georgia – the east coast of the United States. According to the US Energy Information Administration (EIA), no natural gas delivered to Oregon is produced or transmitted through these states, while renewable electricity produced in the Western Electric Coordinating Council (WECC) clearly is used in Oregon – please see Exhibit 3 for an overview of natural gas and electricity flows. There is a clear interconnectivity of electric resources produced within the West and used in Oregon, while this does not exist for natural gas produced on the East Coast and “delivered” to Oregon.

CleanFuture therefore recommends that DEQ establish consistent treatment of biogas to electricity pathways and biogas to RNG pathways used as a transportation fuel in the Clean Fuels Program.

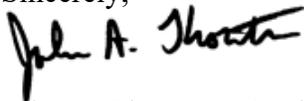
Conclusion

CleanFuture recommends that DEQ make the following changes to the draft rules:

1. Eliminate the efficiency adjustment factor for biogas to electricity pathways,
2. Expand eligibility to qualifying projects with in-service dates after 2000, and
3. Provide eligibility for projects within the Western Electricity Coordinating Council.
4. Treat biogas to electricity projects in a comparable manner to the use of RNG as a transportation fuel.

Thank you for your consideration of these comments. Please advise if any further input on these issues would be constructive.

Sincerely,



John A. Thornton, President
CleanFuture, Inc.

**Exhibit 1: Comment in Response to Implementation of Low Carbon Fuel Standard (LCFS) Guidance 19-06:
Efficiency Standard for Dairy Biogas to Electricity Pathways**



3711 Meadow View Drive
Suite 100
Redding, CA 96003
www.maasenergy.com

November 5, 2020

Daryl Maas, CEO
Maas Energy Works, Inc.
3711 Meadow View Dr. Ste 100
Redding, CA 96002

California Air Resources Board
Attn: Rajinder Sahota & Jim Duffy
1001 I Street
Sacramento, CA 95812

RE: Comment in Response to Implementation of Low Carbon Fuel Standard (LCFS) Guidance 19-06:
Efficiency Standard for Dairy Biogas to Electricity Pathways

Dear Ms. Sahota and Mr. Duffy,

Maas Energy Works, Inc. (“Maas”) appreciates the opportunity to provide written comments in response to the public LCFS workshop held by CARB Staff on 10/14/2020. Maas is an owner and developer of dairy biogas to electricity and renewable natural gas projects in California. We are thankful for Staff’s efforts enabling carbon-negative electricity from dairy digesters to be used for electric vehicle charging under the Low Carbon Fuel Standard. Our comments herein are in reference to the May 2019 Low Carbon Fuel Standard (LCFS) Guidance 19-06: Determining Carbon Intensity of Dairy and Swine Manure Biogas to Electricity Pathways, specifically the implementation of a CI adjustment factor for project specific electrical efficiency. Maas operates dairy digester generators with nearly every digester type in seven separate jurisdictional air authorities in multiple states. We have experimented with a variety of technologies, and this letter provides suggestions based on that experience.

Per conversations with CARB Staff, we support the adoption of a “benchmark efficiency” standard, or similar incentive, to encourage the industry to employ the cleanest, most efficient technologies available to beneficially use dairy methane emissions. We continue to be surprised, however, at CARB Staff’s selection of a 50% efficiency standard for implementation into the LCFS Regulation since this level has not been achieved by any existing biogas technologies. We worry that placing too high of an efficiency standard will result in substantially reduced LCFS credits to most or all dairies that participate, and thus fewer projects built—especially on smaller dairies.

The 19-06 guidance document states the 50% efficiency standard is reasonable based on the “average efficiency of NG-derived electricity at California Power Plants...”. However the document referenced, a California Energy Commission (CEC) staff paper “Thermal Efficiency of Natural Gas-Fired Generation in California, 2017 Update” demonstrates that the California average efficiency is not 50%, but rather is just 44% (see Table 3 from the CEC report below: (3,412 BTU/kwh divided by State Total heat rate of 7,761 BTU equals 44%).

Exhibit 1: Comment in Response to Implementation of Low Carbon Fuel Standard (LCFS) Guidance 19-06: Efficiency Standard for Dairy Biogas to Electricity Pathways

Table 3: California Natural Gas-Fired Power Plant Summary Statistics for 2016

Category	Capacity (MW)	Share of Capacity	Energy (GWh)	Share of Energy	Capacity Factor	Heat Rate (Btu/KWh)
State Total (All Types)	44,224	100.0%	105,820	100.0%	25.4%	8,680
State Total (w/o Cogeneration)	38,388	N/A	80,659	N/A	22.3%	7,761
Combined-Cycle	20,026	45.3%	71,172	67.2%	40.5%	7,338
Aging	8,636	19.5%	3,892	3.7%	3.9%	12,312
Peaking	8,898	20.1%	3,898	3.7%	5.0%	10,269
Cogeneration	5,836	13.2%	25,161	23.8%	48.7%	11,627
Miscellaneous	828	1.9%	1,697	1.6%	23.3%	9,296

Source: QFER CEC-1304 Power Plant Data Reporting.

The most efficient technology on in the CEC report was Combined Cycle Gas Turbine, or “CCGT.” This technology achieved only 46.5% efficiency. Putting aside the fact that 46.5% is less than 50%, it is highly questionable whether performance achieved by a CCGT is therefore achievable by any dairy digester. As page 6 of the referenced CEC report makes clear, the average size of a California CCGT is 571 MW (the report says California has 35 CCGT’s, with a combined 20,000+ MW). In comparison, the average digester engine installed in California is about 0.8 MW. In addition to being about 700 times larger than a digester generator unit, a CCGT runs on pipeline natural gas that is already purified, cleaned, dried, compressed, and delivered on a steady and continuously available basis. None of these factors apply to a dairy digester generator, and thus the “theoretical maximum” conversion to electricity from a digester biogas generator is much less than a pipeline-fed, utility-scale CCGT.

Other than the CCGT technology, all remaining natural gas generation technologies listed on the CEC report are in fact quite similar to digesters in size and employment, such as Peaking systems. These technologies have efficiencies that range from 27.7% to 36.7% (see again Table 3 from CEC report, above). Consequently, a benchmark efficiency standard of just 37% would exceed the efficiency of every installed NG technology category in the state, other than CCGT. Thus, a 37% benchmark efficiency standard would already meet CARB’s goal in providing an incentive to increase efficiencies of all categories of biogas generation equipment above the industry average for natural gas.

The 19-06 guidance also states that solid oxide fuel cells can achieve 50%+ efficiency. To document this statement, 19-06 quotes two scholarly articles from Sciencedirect.com. Both articles are pure research into theoretical performance of systems to produce mathematic models showing high efficiency. They are not case studies of any deployed technology and they do not include any field data or even bench-scale tests of experimental equipment. The references are replete with warnings about the challenges faced in actually deploying these future, theoretical systems. It is telling that no real-world biogas fuel cells examples are available to be cited by 19-06. In practical experience, fuel cells have been tried unsuccessfully at two major California biogas sites: City of Tulare Wastewater Treatment Plant and Inland Empire Utilities District digester. Both were built at great cost and later abandoned. No dairy digester is known anywhere in the country to have successfully deployed commercial fuel cells. The 19-06 cites these studies to say 50% efficiency is achievable, but the introduction to the second article conversely states:

“Although the SOFC-gas turbine cycle was first proposed over 30 years ago, the

Exhibit 1: Comment in Response to Implementation of Low Carbon Fuel Standard (LCFS) Guidance 19-06: Efficiency Standard for Dairy Biogas to Electricity Pathways

technology has not yet left the demonstration phase [12,29,30]. Moreover, no system has demonstrated the record level efficiencies predicted from system calculations...”

Just so. CARB and Air District benchmarks are traditionally based on technologies that meet demonstration standards such as “Achieved in Practice” or “Best Available Control” or result in some recognized technology demonstration, often overseen by CEC or other agencies to show real world data. Biogas fuel cells have met none of these tests, even in highly controlled environments, and 19-06 does not even claim otherwise.

Farmers’ willingness to install digesters depends on their confidence that the associated technologies are proven and can be reliably maintained in a farm setting. The vast majority of small and medium sized farms cannot afford a fuel cell, which in many cases costs more than the dairy facilities themselves. American dairies, almost without exception, have used lean burn internal combustion engines with air-district compliant emission catalysts, which operate at 30-35% efficiency under the best possible real-world circumstances. Thus the 50% benchmark efficiency standard results in a 30-40% penalty on LCFS credits received per cow on dairies in the LCFS program—unless those dairies can locate and install fuel cells that actually achieve this unprecedented level of efficiency. Effectively, the 50% requirement is a penalty on all dairies except the largest and most well-funded dairies. The result will be an incentive to experiment with expensive systems on just a few large dairies that can install and maintain highly complex, unproven equipment—likely with large state grants to subsidize the capital cost.

The recent history of digester development already confirms this trend of digesters biased heavily towards large dairies. Other than a some of our company’s own clients, 100% of digesters installed since 2014 have been on dairies over 3,000 cows. The 50% efficiency benchmark will exacerbate, not reverse this trend. Four fuel cell digesters were proposed on the 2019 CDFA dairy digester grants, all by the same developer, all with the same fuel cell vendor, on some of the largest dairies in the state. The requested sizes were 3.5 MW, 2.0 MW, and 1.2 MW and 3.5 MW, each needing the maximum \$3,000,000 in state grants to proceed. Only a tiny fraction of California dairy herds are large enough support digesters of this scale (and even these appear to need very large grants).

EV charging (without the 19-06 benchmark efficiency reduction in credits) offers the first profitable opportunity for smaller dairies to the enter the digester market—especially those dairies not near a dairy pipeline “cluster,” and especially for dairies that have not been able to secure the state grants that so far have tended to fund large, clustered dairies. We should not miss this opportunity to encourage farmers to invest in technology to mitigate manure emissions. We propose the following alternatives tools to modify the proposed 50% benchmark efficiency standard.

1. Use a benchmark efficiency standard of 37% for digester generators below 1 MW capacity, and 50% for larger generators.
2. Set the benchmark efficiency standard for all sites to 37%, until such time as a California dairy has demonstrated higher real-world efficiencies, with comparable up-time, for a 24-month period necessary for a certified LCFS pathway. Make the demonstrated efficiency the new standard thereafter, perhaps with a phase-in period or small-digester exemption. CARB Staff has enough data now through certified dairy biogas to electricity pathways to determine a realistic and accurate efficiency benchmark.

Exhibit 1: Comment in Response to Implementation of Low Carbon Fuel Standard (LCFS) Guidance 19-06: Efficiency Standard for Dairy Biogas to Electricity Pathways

Each of these approaches may have various attributes for CARB Staff to consider, and the ultimate plan may involve a combination of these and other elements. To achieve the various goals of the state, we suggest that the best program will consider what is technologically possible for California dairies to achieve.

We look forward to collaborating with CARB Staff to implement an appropriate solution.

Sincerely,

A handwritten signature in black ink, appearing to read 'Daryl Maas', with a long horizontal flourish extending to the right.

Daryl Maas
Chief Executive Officer

Exhibit 2: Out of State Biogas to RNG Pathways in Oregon’s Clean Fuels Program

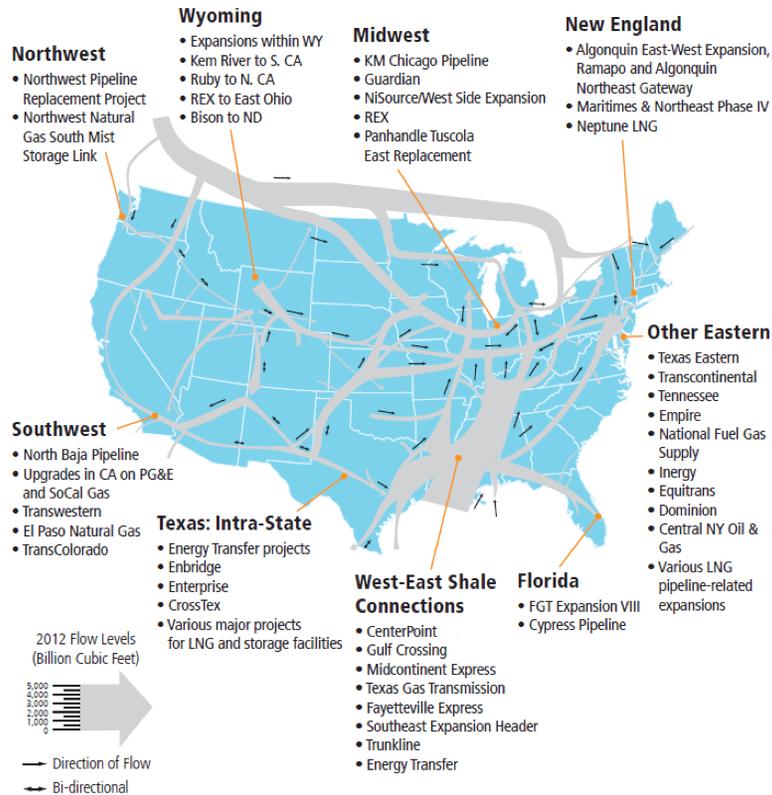
Fuel Organization Name	Facility Name	City	State	Pathway Code	Total Carbon Intensity
U.S. Venture, Inc.	BRD TWO, LLC SARPY COUNTY NEBRASKA PROJECT	Springfield	NE	ORCNG500T	63.96
Shell Energy North America	Edinburg Renewables LLC	Edinburg	TX	ORCNG500T	63.96
Shell Energy North America	Live Oak Landfill Gas Plant	Conley	GA	ORCNG500T	63.96
Trillium Transportation Fuels, LLC	Meadow Branch	Athens	TN	CNG025A01760100	51.98
WM Renewable Energy, LLC	Milam High Btu Gas Plant	East St. Louis	IL	ORCNG500T	63.96
WM Renewable Energy, LLC	Outer Loop High Btu Gas Plant	Louisville	KY	CNG025A01540100	56.77
WM Renewable Energy, LLC	Outer Loop High Btu Gas Plant	Louisville	KY	ORCNG500T	63.96
U.S. Venture, Inc.	Renovar Arlington LTD RNG Project	Euless	TX	CNGORT1N10830100	47.61
U.S. Venture, Inc.	Renovar Arlington LTD RNG Project	Euless	TX	CNGORT1N10900100	42.99
U.S. Venture, Inc.	Renovar Arlington LTD RNG Project	Euless	TX	ORCNG500T	63.96
WM Renewable Energy, LLC	WM Renewable Energy of Ohio - American	Waynesburg	OH	CNG006	33.02
WM Renewable Energy, LLC	WM Renewable Energy of Ohio - American	Waynesburg	OH	CNGLF264	43.97
WM Renewable Energy, LLC	WM Renewable Energy of Ohio - American	Waynesburg	OH	ORCNG002	50.26
Applied Natural Gas – North American Landfills - McCarty Road LFG Recovery Facility	Applied Natural Gas – North American Landfills - Fort Bend Landfill -	Needville	TX	LNG012_1	40.91
Applied Natural Gas – North American Landfills - McCarty Road LFG Recovery Facility	Applied Natural Gas – North American Landfills - McCarty Road LFG Recovery Facility	Houston	TX	LNG027	27.45
Clean Energy - Pinnacle Gas Producers, LLC	Clean Energy - Pinnacle Gas Producers, LLC	Moraine	OH	LNG020	25.5

Element Markets Renewable Energy, LLC - Johnstown Regional Energy - Southern Alleghenies	Element Markets Renewable Energy, LLC - Blue Skies Energy	Davison	MI	LNG017	24.9
Element Markets Renewable Energy, LLC - Johnstown Regional Energy - Southern Alleghenies	Element Markets Renewable Energy, LLC - Blue Skies Energy	Davison	MI	LNG019	21.68
Element Markets Renewable Energy, LLC - Johnstown Regional Energy - Southern Alleghenies	Element Markets Renewable Energy, LLC - Johnstown Regional Energy - Raeger	Johnstown	PA	LNG016	25.87
Element Markets Renewable Energy, LLC - Johnstown Regional Energy - Southern Alleghenies	Element Markets Renewable Energy, LLC - Johnstown Regional Energy - Shade	Cairnbrook	PA	LNG016	25.87
Element Markets Renewable Energy, LLC - Johnstown Regional Energy - Southern Alleghenies	Element Markets Renewable Energy, LLC - Johnstown Regional Energy - Southern Alleghenies	Davidsville	PA	LNG016	25.87

Exhibit 3: Flows of Natural Gas and Electricity in the United States (EIA)

Flows of Natural Gas in the United States

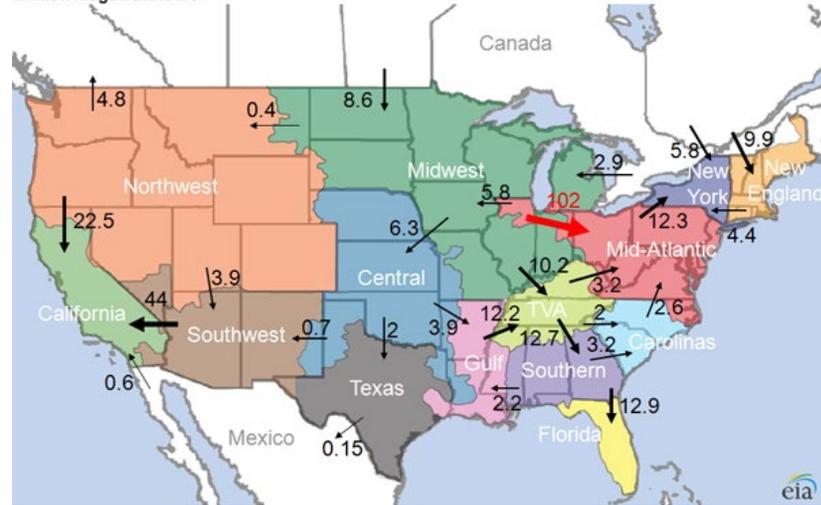
Figure B-17. Major Natural Gas Pipeline Capacity Expansions, 2004–2014¹²⁰



Source: US Department of Energy (DOE), Natural Gas Infrastructure - https://www.energy.gov/sites/prod/files/2015/06/f22/Appendix%20B-%20Natural%20Gas_1.pdf

Flows of Electricity in the United States

Annual net power flows among regions in North America, 2010
million megawatthours



Source: US Energy Information Administration (EIA), Today in Energy - <https://www.eia.gov/todayinenergy/detail.php?id=4270>



Clean Fuels Program Staff
Oregon Department of Environmental Quality (DEQ)
VIA Email

December 1, 2020

RE: NW Energy Coalition's comments regarding the Clean Fuels Program Electricity 2021 Rulemaking draft rules released for the November 19, 2020 advisory committee meeting.

The NW Energy Coalition (NWEC) appreciates the opportunity to comment on the Clean Fuels Program Electricity 2021 Rulemaking. These comments are in response to the draft rules released for the November 19, 2020 advisory committee meeting.

Renewable Electricity Draft Rules

Electricity Carbon Intensity (CI)

The Renewable Electricity Draft Rules do not yet include language adjusting the statewide mix to remove emissions and energy associated with utilities that have opted in for a utility-specific mix. We understand that DEQ plans to include this in the methodology for determining the carbon intensity of electricity. We support this change to the Clean Fuels Program to ensure the CI accurately represents the grid-mix associated with the EV charging.

Renewable Energy Certificates (RECs)

As DEQ considers the use of RECs to demonstrate incremental electricity CI reductions as a means to generate incremental credits in the CFP, specific requirements on RECs are essential to help ensure they result in benefits to Oregon. Strong REC requirements can further support additionality and drive new renewable energy investments as well as help maintain the integrity of the REC and avoid double counting.

We strongly support the current proposal's REC requirements, including:

- RECs must be certified by Green-e to minimize risks of double counting and reduce the administrative burden on DEQ;
- Documentation that the electricity associated with the REC is delivered to a balancing authority that has a footprint in Oregon; and,
- RECs must be generated by an electric generator that was placed into service after 2015. This is consistent with other areas of the program and further encourages additionality.

Strong REC requirements are appropriate for this application as entities also have the option of utilizing utility voluntary renewable energy products, on-site generation, and power purchase agreements to reduce their electricity CI.

Lastly, we recommend the following edit be made to the proposed language in 340-253-0470(5)(b)(D):

RECs must be **associated with electricity that is** generated within a balancing authority area that includes a portion of the state of Oregon, as recognized by the North American Electric Reliability Corporation, or that the electricity from the generating facility is delivered to one of those balancing authorities on a real-time basis without shaping, storage, or integration services, or in the Pacificorp-East balancing authority area.

We ask that DEQ continue to provide information on how they plan to track the delivery of electricity associated with particular RECs and we encourage DEQ to assess whether the requirements related to “shaping, storage, or integration services” could have unintended consequences.

Monitoring the Use of RECs

The CFP is scheduled to operate through 2035 and there are certain outcomes that are difficult to predict as it relates to the use of RECs. While this does not proscribe the use of RECs, DEQ should monitor and report on the use of RECs in the CFP to support alignment with Oregon’s clean electricity and GHG emissions reductions policies including, but not limited to:

- The number of RECs retired annually for incremental credit generation.
- The average cost of RECs retired annually for incremental credit generation.
- The use of RECs in comparison to other compliance obligations or voluntary efforts that rely on RECs.
- Occurrences of potential double counting and whether or not electricity and REC markets have adapted to address potential double counting occurrences.

Electricity Credit Generators Draft Rules

NWEC supports aspects of the current proposal allowing utilities and/or a non-profit incremental aggregator to claim the residential incremental credits. We recommend that automakers not be eligible to claim incremental credits as they are not an entity that can reasonably act on behalf of Oregon residents and they do not have a history of working in the public interest in Oregon.

Respectfully submitted,

Annabel Drayton
Policy Associate
NW Energy Coalition



1157 Valley Park Drive, Ste. 100
Shakopee, MN 55379

December 8, 2020

Cory-Ann Wind
Oregon Department of Environmental Quality
700 NE Multnomah St., Suite 600
Portland, OR 97232

Electronic submittal only to CFPE2021@deq.state.or.us

Re: RPMG Comments on Fiscal and Economic Analysis of the Clean Fuels Program Electricity 2021

Dear Cory-Ann,

RPMG Inc. (RPMG) is a biofuel marketing company active in the Oregon fuels marketplace, representing our owner and marketing partner ethanol facilities located throughout the Midwest.

The Advisory Committee meeting on December 1, 2020 focused on the fiscal and economic analysis of the draft staff proposals related to EV changes to the Clean Fuels Program. RPMG does not have direct comments on what was presented, but rather would like to suggest that there is way to reduce CI scores in a very cost effective manner—allow for book-and-claim indirect accounting for renewable electricity and process energy at biofuel facilities. We understand this concept is outside the scope of this rulemaking, but feel strongly that such a change to the CFP would be a positive development for both the program and biofuel developers.

In closing, RPMG looks forward to continuing work and dialogue with agency staff to improve the implementation of this important regulation.

Thank you,

/s/

Jessica W. Hoffmann
Regulatory and Compliance Manager
RPMG, Inc.



201 California Street, Suite 630, San Francisco, CA 94111
www.srectrade.com | 415.763.7732

December 8, 2020

Cory Ann Wind
Oregon Department of Environmental Quality
700 NE Multnomah Street, Suite 600
Portland, OR 97232

Submitted electronically via CFPE2021@deq.state.or.us

RE: SRECTrade Comments on CFP Electricity 2021 Rulemaking Advisory Committee Workshops

Dear Ms. Wind,

SRECTrade appreciates this opportunity to submit comments on the potential changes to the Clean Fuels Program (CFP).

[SRECTrade](#) is a technology driven platform and services provider that helps provide equitable access to complex regulatory markets. As one of the largest third-party managers of environmental commodities in the United States, our goal is to accelerate adoption of clean energy assets while minimizing the time, cost, and risk associated with achieving financial return and compliance. As the largest third-party manager of electric vehicle (EV) assets in the California Low Carbon Fuel Standard (LCFS) Program and with an actively growing portfolio in the Oregon Clean Fuels Program (CFP), we help facilitate program participation from a variety of public and private clean energy asset owners across multiple industries and sectors.

SRECTrade respectfully submits the following comments to Staff in response to the CFP Electricity 2021 Advisory Committee workshops beginning on September 24, 2020 and concluding on December 1, 2020:

DEMONSTRATING RENEWABLE ENERGY CERTIFICATE (REC) ELIGIBILITY

SRECTrade is supportive of DEQ's efforts to efficiently ensure proposed REC eligibility requirements are being met. However, we strongly urge DEQ away from the use of a certification standard such as Green-e and suggest instead that retirement in a widely used REC tracking system such as the Western Renewable Energy Generation Information System (WREGIS) be specified in OAR 340-253-0470(5)(a) or at least be considered as a substantially equivalent means of verifying that RECs used to reduce the carbon intensity of electricity to meet DEQ's proposed requirements. WREGIS is an effective system and tool to track and validate the temporal, spatial, and various other properties of RECs. Asset registration in WREGIS is rigorous and requires engineering drawings and interconnection agreements to be submitted before approval. Third-party qualified reporting entities ensure ongoing reporting is validated. As has been successfully demonstrated in the California LCFS program, WREGIS retirement reports allow program staff to efficiently verify that RECs are meeting both eligibility *and* additionality requirements.

Requiring Green-e certification would unnecessarily layer the Green-e program's more restrictive requirements onto those proposed by DEQ while conveying no material administrative benefit to Staff nor a substantive benefit to CFP goals. Instead, the Green-e requirement would limit REC supply that could otherwise meet DEQ's proposed eligibility requirements, diminish CFP participation-inducing economic benefit from additional credit generation with lower carbon intensity, and even mute the impact of CFP incenting future renewable energy development in the state.

PLACED IN-SERVICE DATE

SRECTrade recommends against using a placed-in-service date as recent as 2015 as it will unnecessarily limit the supply of RECs eligible to lower the carbon intensity of electricity in the CFP. While SRECTrade understands and appreciates DEQ's efforts to ensure additionality within the program, this requirement might exclude projects that may not yet be accounted for by other state programs. In our experience in California, the addition of REC book-and-claim accounting has resulted in solar assets that were not previously generating RECs to be integrated into the system.

ADVANCE CREDITING

SRECTrade supports the intent behind advance crediting and recommends that commercial fleets operating medium and heavy-duty vehicles be considered for eligibility. In our experience, commercial entities are at least as and often more able to make investments in electrification using incentives that lower their upfront costs, further driving EV adoption within the state. Commercial entities can be required to meet the same eligibility and ongoing reporting requirements outlined in the proposed draft amendments.

Thank you very much for your time and consideration as you review these comments. We welcome the opportunity for further clarification and discussion of our comments.

Best Regards,



Steven Eisenberg
Chief Executive Officer
SRECTrade, Inc.
201 California St. #630
San Francisco, CA 94111



Evan Rosenberg
Senior Manager, Business
Development SRECTrade, Inc.



Mr. Bill Peters
Clean Fuels Program Analyst
Oregon Department of Environmental Quality
700 NE Multnomah Street, Suite 600
Portland, OR 97232

Dear Bill,

Thank you for the opportunity to provide comments on the Discussion Draft rules, November 5, 2020, Clean Fuels Program Electricity 2021 Rulemaking Advisory Committee Meeting, in regards to the Advance Credit Program (the “Program”).

TriMet appreciates the Program DEQ is considering. We see a significant benefit in such a program which would allow TriMet to use the funds upon the advance sale of fuel credits towards the purchase of future electric buses.

TriMet has identified several considerations to participating in the advance credit program including electrification technology, ownership of charging infrastructure, Portfolio of Vehicles, Supply/Demand of credits available for sale and non-revenue vehicles (NRV).

Proven Technology

The electrification technology needs to improve for TriMet to be successful in forecasting usage which results in credits. TriMet has purchased 5 electric buses to date but due to some failures of the technologies, TriMet’s actual use of those specific buses has been less than anticipated and is not yet sufficient to forecast what future usage could realistically be. TriMet has a plan to convert or replace our existing 729 diesel fuel buses as well as any future buses purchased to a fully electric fleet around or before 2040, depending on advances in technology.

Charging Infrastructure Ownership

TriMet has entered into an agreement with PGE in regard to ownership of some charging infrastructure and credits generated. As part of that agreement, PGE reports electrification usage from charging infrastructure it owns and receives the benefit of the resulting credits. As such, TriMet would not be reporting any usage from those chargers. Should such agreement continue in the future the advance credit program would not be of benefit to TriMet. However, TriMet may elect to own charging infrastructure in the future based on PGE’s ability to provide funding for such facilities. In the event TriMet elects to own charging infrastructure, the advance funding option could be of significant benefit.

Portfolio of Vehicles

The Program proposes a vehicle specific approach. As the largest transit provider in the tri-county area, the vehicle specific approach presents considerable risk associated with the advance of credits. Would DEQ consider an average use of electric vehicles in a fleet? By using the average, risk could be mitigated by different production years, upgrades in technology, ridership and expansion of our system. The vehicle specific approach may be better set for individuals who own one electric vehicles, not a fleet of vehicles. Using an average vehicle usage could allow TriMet to participate in the Program sooner.

Supply/Demand

The draft rules suggest advancement of three (3) years of credits with four (4) years to earn the credits but in no case should the payback period exceed five (5) years. While TriMet agrees with the time frame, the available credits could saturate the market, resulting in more supply than demand and force TriMet to sell credits at a lower price than we otherwise would be able to generate. TriMet suggests a further examination of mechanisms to avoid such a circumstance, such as a more flexible deadline based on DEQ analysis of credit markets, supply, and demand.

Non-Revenue Vehicles

TriMet has 278 non-revenue vehicles (NRVs) of all types. In converting our NRV fleet, the usage of some vehicles is difficult to forecast as some vehicle usage is dependent on weather or unplanned event conditions. As a result, not all TriMet's NRV fleet would be considered for the advance credit program.

Thank you again for the opportunity to provide comment. We appreciate the opportunity to work with DEQ in the Clean Fuels Program now and in the future.

Sincerely,



Bernie Bottomly
TriMet Executive Director Public Affairs

Cc: Dee Brookshire, CFO, Executive Director Finance & Administrative Services
Nancy Young-Oliver, Director Budget & Grants

December 2020

Oregon Department of Environmental Quality (DEQ)
Oregon Clean Fuels Program (CFP)

Re: Comments on Clean Fuels Electricity 2021 Rulemaking, Fiscal Impact Meeting, 12/1/20

Dear CFP Team:

Thank you for this opportunity to comment on the proposed changes to electricity crediting under the Clean Fuels Program discussed at the recent series of workshops. Please find several comments below for the team's consideration on topics that came up in the workshop discussion, in no particular priority order. For any clarifications or questions, please contact Julie Witcover at jwitcover@ucdavis.edu.

Sincerely,

Julie Witcover, Ph.D.
Assistant Project Scientist, Policy Institute for Energy, Environment, and the Economy
University of California, Davis, California, USA

-
- *“Carbon intensity” vs. “Carbon intensity value” or “score”*. DEQ is proposing to change the CI value assigned to the statewide electricity grid, by removing from the accounting electricity going to utilities that have chosen to opt in to utility specific CI values. The topic came up in discussion that DEQ was “changing the CI value.” Wording is important here: the underlying GHG emissions associated with providing that electricity have not changed, and its associated CI has also not changed. The DEQ proposal critical for the environmental integrity of the program to avoid "double-accounting" of GHG emissions savings at utility level that occurs when utility-level CI scores are included in the statewide average applied outside the utility area as well as inside the utility area as an opt-in utility-specific CI score. The significance of the double counting vis-à-vis crediting grows over time with stricter standards and lower CI values from the decarbonized grid. Implementing a rigorous GHG accounting would require retroactive rescinding of these extra credits; such a move would not be in keeping with the market-mechanism nature of the program. Still, that reality, should be taken account of in environmental evaluation of the program, as should the fungibility of electricity within the balancing authority area. The substance of this comment largely echoes one made with regard to an earlier



POLICY INSTITUTE FOR ENERGY, ENVIRONMENT, AND THE ECONOMY

meeting; the most accurate terminology in this instance, while perhaps cumbersome, avoids confusion about what DEQ is proposing, and its impacts.

- *Low-CI value electricity requirements – compatibility with existing certificate systems.* There is growing use of certificates to verify and track fuel environmental attributes for various programs, policies, and purposes. Their applicability and in what form or with any modification for any particular program, such as the CFP, should aim for clarity and simplicity. However, alignment with the accepting program's environmental integrity, in this case low-CI value activity used for CFP credit generation, is critical to the growth of additional uses for such certificates and the increased action behind them. Administrative feasibility and other policy objectives are, as always, also policy considerations. The rulemaking regarding constraints, if achieving clarity and simplicity to the extent possible, should incentivize interested stakeholders to generate accurate messaging strategies to facilitate the uptake of low carbon fuels, and the financial incentive from the policy associated with that activity.
- *Assessing Fiscal Impact Associated with New Credit Generation Opportunities.* The discussion focused on the additional incentive available to parties who take advantage of the new electricity credit generation opportunities outlined, and difficulties assessing quantities of takers *a priori*, and especially prior to the illustrative compliance scenario analysis (which will involve some estimates in this regard). However, not just the new quantity of credits should be considered, but also their impact on credit price. This will impact those taking advantage of the new opportunities, all other credit generators in the program, and the public consuming transportation fuels.



Tiffany Roberts

Vice President, Regulatory Affairs

December 10, 2020

(Submitted by email to CFPE2020@deq.state.or.us)

Oregon Department of Environmental Quality
700 NE Multnomah Street, Suite 600
Portland, OR 97232-4100

Re: Comments on Oregon Clean Fuels Program Electricity Rulemaking: Proposed Draft Rules and Draft Fiscal Impact Statement

Dear Cory Ann Wind,

On December 1, 2020, the Oregon Department of Environmental Quality (DEQ) held a workshop to discuss fiscal impacts of the proposed draft rules for the Clean Fuels Program (CFP) Electricity Rulemaking. Western States Petroleum Association (WSPA) is a non-profit trade association that represents companies that export for, produce, refine, transport and market petroleum, petroleum products, natural gas and other energy supplies in Oregon and four other western states, and has been an active participant in air quality planning issues for over 30 years. WSPA appreciates the opportunity provide comments on the Updated Draft CFP Rules,¹ Draft Fiscal Impact Statement,² and workshop presentation.³

Draft Rules

Section 340-253-1100 – Advance Crediting

The Advance Crediting proposal would incentivize the purchase of electric vehicles through a funding program that would circumvent the Oregon legislative and voter approval process. WSPA has significant concerns regarding the authority of DEQ to issue loans for public entities without legislative approval as this poses a significant risk to taxpayers if such loans are not paid back. These risks have not been fully captured or properly addressed in the Advance Crediting provision. Given existing legislative electrification efforts established in Senate Bill 1044 (SB1044),⁴ WSPA emphasizes that incentive and funding programs belong under the purview of the legislative branch.

¹ Oregon CFP Electricity Rulemaking Draft Rules. Available at: <https://www.oregon.gov/deq/Regulations/rulemaking/RuleDocuments/CFPE2021ac6DraftRules.pdf>. Accessed December 2020.

² Oregon CFP Electricity Rulemaking Draft Fiscal Impact Statement. Available at: <https://www.oregon.gov/deq/Regulations/rulemaking/RuleDocuments/CFPE2021AC6FIS.pdf>. Accessed December 2020.

³ Oregon CFP Rulemaking Advisory Committee Meeting #6 Presentation Slides. Available at: <https://www.oregon.gov/deq/Regulations/rulemaking/RuleDocuments/cfpe2021m6Pres.pdf>. Accessed December 2020.

⁴ Oregon Senate Bill 1044. Available at: <https://olis.leg.state.or.us/liz/2019R1/Measures/Overview/SB1044>. Accessed December 2020.

As stated in the WSPA comment letters dated October 13 and November 13, 2020, WSPA remains highly skeptical of DEQ's authority to implement the Advance Crediting proposal. If

DEQ moves forward with the Advance Crediting provision for select public fleets and Tribes, WSPA offers the following comments:

- While WSPA recognizes that this provision is within the Program's Electricity Rulemaking process, we emphasize the need to preserve fuel neutrality in all regulatory aspects of the CFP rather than considering individual fuels in separate regulatory processes. As such, if DEQ approves the Advance Crediting provision, WSPA recommends that DEQ allow other fuels (such as liquid fuels) to qualify for Advance Crediting. Special provisions should not be given to a particular fuel or technology.
- If DEQ moves forward with the advance crediting provision, WSPA supports the addition of an overall limitation on Advance Credits. To that end, WSPA encourages DEQ to include in its Quarterly Data Summaries the number of Advance Credits that have been issued to ensure full transparency.
- Although DEQ stated in previous workshops that Advance Credits would apply to entities that intend to purchase EVs, it is not clear what activities qualify and what methodology will be used to calculate the Advance Credits. For example, are the Advance Credits limited to vehicle purchases and electric charging equipment? Other infrastructure? WSPA recommends that additional clarity be provided on what activities qualify for Advance Credits. How will the applicant and DEQ estimate the potential credit generation? These questions would need to be answered to ensure the Advance Credits tie directly to actual reductions of GHG emissions.

Section 340-253-0330 (10)(b)– Incremental Aggregator

WSPA supports the concept of Incremental Aggregators within the proposed Credit Generator provision. However, the current requirements in Section 340-253-0330 (10)(b)¹ are overly burdensome and confusing. WSPA recommends that the requirements be simplified.

Under the CFP, a regulated party may designate a Credit Facilitator to initiate and complete credit transfers on behalf of the regulated party.⁵ Similarly, the owner of new electric charging equipment should be able to designate an Incremental Aggregator without requiring the Incremental Aggregator to complete an extensive application and renewal process. Instead, WSPA recommends DEQ adopt regulations similar to California⁶, whereby the owner of the equipment is allowed to designate an Incremental Aggregator to be the credit generator by written contract. However, unlike a Credit Facilitator, the Incremental Aggregator would accept all CFP reporting responsibilities, including quarterly progress and annual compliance reports.

⁵ Oregon Clean Fuels Program 340-253-0040, Definitions. Available at: <https://secure.sos.state.or.us/oard/displayDivisionRules.action?selectedDivision=1560>. Accessed: December 2020.

⁶ CARB LCFS Regulation. Available at: https://ww2.arb.ca.gov/sites/default/files/2020-07/2020_lcfs_fro_oal-approved_unofficial_06302020.pdf. Accessed: December 2020

Alternatively, if there are security concerns that require the extensive requirements for Incremental Aggregators, then WSPA recommends that the regulations are differentiated for residential charging and/or by whether the Incremental Aggregator is already a Regulated Party. Thereby, the extensive application and renewable process can remain where needed but would not unnecessarily apply to all.

Section 340-253-0470 (2) – Retirement of major fossil fuel generators

WSPA requests that DEQ provides a reference and assumptions used to derive the proposed emission factor of 0.428 metric tons CO₂e/MWh to account for the removal of the Boardman coal-fired power plant from the Oregon grid.

Draft Fiscal Impact Statement

EO 20-04 directs State Agencies to “prioritize actions that reduce greenhouse gas (GHG) emissions in a cost-effective manner.” As such, DEQ is obligated to conduct a comprehensive analysis with substantiated cost-effective pathways to meeting the state’s climate goals well in advance of regulatory action. The DEQ Fiscal Impact Analysis presented in the workshop presentation and Draft Fiscal Impact Statement fails to comprehensively assess whether the proposed rules would have a fiscal impact, or how significant such an impact might be. While DEQ has provided brief fiscal impact statements for each proposed amendment, those statements do not demonstrate the cost effectiveness of transportation electrification as required by Executive Order (EO) 20-04.⁷

Further, the DEQ Fiscal Impact Analysis does not discuss the fiscal impacts on DEQ. The proposed expanded regulations will stretch the limited DEQ resources assigned to the CFP. WSPA is concerned that DEQ will not have the resources to effectively administer and enforce the already very complex CFP regulation that would become even more broad and more complex under the proposed amendments.

Workshop Presentation

At the RAC meeting on December 1, 2020, DEQ introduced the notion of “displacement credits” for forklifts.⁸ But the Draft Rules¹ do not include language concerning displacement credits.

Section 340-253-0640 (2)(e) of the Draft Rules specifies that reports for forklifts must be separated for model year before 2015 and model year 2015 and after.¹ Section 340-253-1020 (2) addresses the credit calculations for forklifts model year 2015 and earlier but does not explain how the credits are calculated for newer forklifts.¹ Furthermore, the two sections above conflict with respect to the treatment and classification of forklifts model year 2015.

WSPA recommends that DEQ revise the proposed regulatory language to include a definition, applicability, calculations and exceptions (if any) for displacement credits.

Oregon Administrative Rules (OAR) Error

Unrelated to the electricity rulemaking, WSPA believes that an error remains in OAR 340-253-8010 regarding the entry for “Renewable Naphthalene “ presented in Table 6, Energy Densities

⁷ Oregon Executive Order 20-04. Available at: https://www.oregon.gov/gov/Documents/executive_orders/eo_20-04.pdf. Accessed December 2020.

⁸ Oregon CFP Rulemaking Advisory Committee Meeting #6 Presentation Slide (#10). Available at: <https://www.oregon.gov/deq/Regulations/rulemaking/RuleDocuments/cfpe2021m6Pres.pdf>. Accessed December 2020.

December 10, 2020

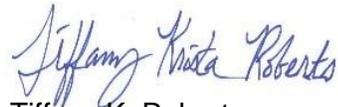
Page 4

of Fuels.⁹ WSPA understands that DEQ intended to specify the energy density of renewable naphtha (gasoline blend stock) and not the energy density of renewable naphthalene (a crystalline solid, also the ingredient of mothballs). WSPA requests DEQ to verify this entry and revise Table 6 with the appropriate fuel name.

Conclusion

Thank you for consideration of our comments. We would welcome the opportunity to discuss these ideas in more detail. If you have any immediate questions, please feel free to contact me. We look forward to working with you on these important issues.

Sincerely,



Tiffany K. Roberts,
Vice President, Regulatory Affairs
Western States Petroleum Association

⁹ OAR Chapter 340, Division 253, Table 6. Available at: <https://secure.sos.state.or.us/oard/viewSingleRule.action?ruleVrsnRsn=269347>. Accessed December 2020.