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April 19, 2023

Oregon Department of Environmental Quality  
Attn: Cory-Ann Wind  
700 NE Multnomah Street, STE 600  
Portland, OR 97232-4100

RE: Clarification requested regarding metered data for e-forklifts in the Clean Fuels Program

Dear Ms. Cory-Ann Wind and DEQ CFP Team,

This letter has been drafted, undersigned, and represents the united voice of five leading aggregators in the Oregon Clean Fuels Program, accounting for the overwhelming majority of electricity-based FSE registrations and 95-99% of material handling FSE registrations within the Oregon Fuels Reporting System. Together, we support hundreds of businesses across thousands of facilities, generating tens of millions of dollars annually in credits to advance fleet electrification and fostering transparency and accessibility within the CFP.

We reflect many of the state's diverse businesses, spanning a myriad of industries, each with unique maturity in their understanding of zero-emission transportation technology. In a shared goal with DEQ, aggregators seek to educate these companies on the benefits they can access through participation in the OR CFP, lower the barrier to entry in the program by taking on the related administrative burden and communicating their needs and concerns to the DEQ, and ultimately, serve as an expedited solution toward climate change.

Aggregators play an important role in the CFP, as we consolidate our clients' common interests, frequently asked questions and challenges, and present them to DEQ for targeted discussion, reducing the number of direct stakeholders state administrators must interact with on a regular basis. When given the opportunity, aggregators can provide DEQ valuable insight into the real-world adoption rates and feasibility of new technology across the array of businesses we work alongside, and relay identify unintended, undesirable impacts of proposed regulatory changes. As the everyday champions of the CFP, aggregators also strongly endorse regulatory language and registration procedures that allow for clear and concise oversight from DEQ so as to strengthen and support the health of this impactful program.

Consistent with these functions, Smart Charging Technologies, PineSpire, e-Mission Control, 3-Degrees, and SRECTrade submit this letter to express our shared concern and offer solutions to the following text published in the March 8th revision of the document titled [Changes to Fuel Supply Equipment Registration](#):

*“DEQ has not developed an alternative methodology for forklifts, so the only reporting that will be allowed to be reported to DEQ is that which is metered at the point of dispensation.”*

The influence of the suggested guidance from March 8th would be sweeping. Industrial battery chargers do not have internal metering similar to on-road EV chargers, and instead require external meter installations. Such meter installations at facilities with complex electrical configurations require a special site survey to determine the number of needed meters (based on branch circuit) and the current rating for the circuit. Setting up metering in existing facilities takes considerable time to have them operational, depending on the facility's size. Extensive time, readily-available inventory, and electrical professionals are all required for this sudden demand for metering analysis, sourcing, permits, installation, and validation.

From an economic perspective, based on our significant, collective experience in the field, we know that many companies invest in electric forklifts having made their decision partly on a business case involving CFP credits. The abrupt disqualification of estimated energy usage will definitely have a negative impact on their business case. It will also make them lose confidence in the stability of the CFP program thus negatively impacting their future investment decisions. Anecdotally, given the relatively higher availability of battery-powered forklifts compared to other burgeoning electrified applications, material handling serves as many businesses' first foray into the Clean Fuels Program, and indirectly as a signal of future willingness to adopt the program as they procure new zero-emission technologies.

We believe the suggest language in the March 8th guidance contradicts OAR 340-253-1000(2) under the current regulation, which states: "...If the fuel cannot be accurately metered at the point of dispensation, DEQ may approve an alternative methodology and all registered parties reporting in that circumstance must use that methodology." It also contradicts recent feedback from DEQ on February 1st after an inquiry about alternative methodologies for forklifts, "...but we are developing one. We will be providing an update once we have this published on our website."

In time, aggregators believe that a metered approach is the most accurate and appropriate, however, should DEQ choose to move forward with requiring metered data, we request that it issue a formal proactive communication regarding the change and clarify the following:


- The effective date of the requirement.
- How such a requirement interacts with OAR 340-253-1000(2), the rationale for why the CARB estimation methodology, which has been accepted in past years, is no longer suitable, and the rationale for not proposing an alternative methodology.


Any such change should also consider allowing legacy exemptions for already-registered forklifts, and consider introducing funding opportunities to support a metered data reporting requirement and ensure equitable access to the Clean Fuels Program. Given that, with rare exception, the installation of metering hardware falls outside the normal operating requirements of electric forklift, complying with the proposed requirement would present an additional capital expenditure to the vast majority of businesses with forklift fleets in Oregon's Opportunity Zones. We highlight that part of the aggregator's role is to sell aggregated credits to fuel suppliers to cover their deficits through binding contracts. Introducing such disruption without sufficient lead time may mean that aggregators default on contractual obligations, potentially causing significant liabilities.


With respect for the rulemaking process, it is customary for regulatory programs to give advanced warning regarding requirements that involve significant cost, time, and effort. For example, CARB has announced its LCFS program's need for metering a year ahead of the rule change. Oregon CFP, in OAR 340-253-1000 (2), kept the door open for an alternative methodology, yet the March 8th document in question seems to have suggested otherwise. Assuming this is not DEQ's intent, we recommend that, should it still be deemed favorable to move toward a metered data requirement for forklifts in the CFP, the agency should do so via a gradual process, taking into account stakeholder and industry input and realistic implementation timeframes.


In conclusion, we again caution that last month's statement has far-reaching implications, and its implementation, if at all, should only take place after careful collaboration and dialogue with the aggregators who will ultimately be responsible for disseminating this pivotal information to end users of the program. We urge DEQ to lean into their own acknowledgment, also shared in the March 8th revision, that "aggregators play a significant role" and to remain true to their commitment to "working directly with them to make this process efficient and timely for them and their clients." We appreciate your time and consideration, and look forward to finding a solution that will be acceptable to all stakeholders while continuing to advance the goals of the Oregon Clean Fuels Program.

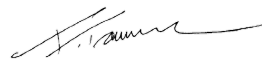
Sincerely,

  
Khalid W Rustom (Apr 19, 2023 18:01 EDT)  
Khalid Rustom  
Smart Rebates Director  
Smart Charging Technologies LLC

  
Steven Eisenberg (Apr 19, 2023 18:05 EDT)  
Steven Eisenberg  
CEO  
SRETrade, Inc.

  
Ryan Huggins (Apr 19, 2023 16:20 MDT)  
Ryan Huggins  
Partner  
PineSpire, LLC

  
Maya Kelty (Apr 19, 2023 18:59 PDT)  
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# OR CFP\_Aggregator Letter\_04192023


Final Audit Report

2023-04-20


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