



State of Oregon Department of Environmental Quality

Comments

Clean Fuels Program Expansion Reporting Workshop

This document is a compilation of written comments received in response to the Reporting Workshop that was held on Jan. 20, 2022.

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February 11, 2022

Cory Ann Wind
Oregon Department of Environmental Quality (DEQ)
700 NE Multnomah Street, Suite 600
Portland, OR 97232
Submitted electronically via CFP.2022@deq.state.or.us

RE: 3Degrees Group Inc.'s Comments on DEQ January 2022 Rulemaking Advisory Committee #2 Meeting

Dear Ms. Cory Ann Wind,

3Degrees Group Inc. (“3Degrees”) appreciates Department of Environmental Quality (DEQ) Staff’s commitment to well-organized stakeholder meetings with ample opportunities for public input. The following comments are in response to both the Rulemaking Advisory Committee (RAC) Meeting #2, as well as the slide deck for the Reporting Workshop held on January 20, 2022.

We look forward to further discussion during upcoming workshops and the next RAC meeting on March 31, 2022.

Target-setting

We support DEQ’s continued investigation and open discussion on the appropriate CI targets for the clean fuels program (CFP), particularly in the context of recent policy developments in Oregon that make the ICF modeling conservative. We agree with comments that have been received that there are risks to setting the CFP targets too low, and significant upside to maximizing low-carbon fuels innovation, commercialization of low-carbon vehicles, local health benefits, and GHG reductions by setting aggressive targets out through 2035 and beyond.

Additional documentation for non-prompt credit transfers

We understand and appreciate DEQ’s desire to have insights into the credit prices for long-term agreements and agreements that cover multiple credit transfers. We recommend that DEQ implement rules to track these transactions in a way that directly targets the desired information. For example, we recommend that DEQ not require that full agreements be submitted, but rather only the pricing and other details DEQ needs to sufficiently monitor the market. We also recommend that DEQ explore an approach that more directly targets long-term contracts or agreements with multiple credit transfers. In California, we have had instances where a counterparty failing to accept a credit transfer within 10 days can result in added complexity due to the delay triggering the requirement to add in the agreement despite the deal not being a long-term agreement. There may be additional fields that DEQ can incorporate into the Oregon Fuels Reporting System to flag if a transaction is covered under a long-term agreement which would then necessitate the additional information being provided to DEQ.

Require an electricity tracking system for RNG attributes

3Degrees is supportive of the proposal to require that RNG attributes be tracked in an electronic tracking system, in line with SB98 requirements. We see no obvious drawbacks to requiring the use of a tracking system and multiple benefits. Renewable electricity and carbon markets have both shown the important role that electronic tracking systems can play in compliance accounting and reporting. Tracking systems have a number of benefits in terms of program implementation, including:

- Ensuring that all environmental attributes issued into the tracking system meet the agreed upon criteria. For instance, the tracking system can require that certain data be provided or certain validation be undertaken before the attribute(s) can be issued into the tracking system.
- Preventing against double-counting, because only a single entity can issue environmental attributes from a given project, and then only one party can hold those environmental attributes in their account at any one time.
- Facilitating compliance reporting and tracking through standardized reports that can be submitted by compliance entities to the regulator.

We support the tracking system implementation being in line with SB98 requirements, as the benefits of tracking systems are diminished if states and/or markets begin to use different tracking systems. Since the market for RNG is national, a single, standardized tracking system will best serve the development of the market.

Additional credit generation post-certification or verification of a fuel pathway

We are supportive of the proposals to allow credit true-up between a temporary fuel pathway code (FPC) and a certified CI, as well as between a certified CI and the operational CI verified by a third-party. On the latter, we have experience with pathways that have changed significantly between the provisional CI and the certified CI. We agree that a materiality threshold of 5% is appropriate and reasonable to minimize the number of corrections that Staff would need to issue. Credit true-up will create assurance that projects will realize the full benefits of reducing CI and therefore reduce any incentives to delay applications until the producer deems the data to be most favorable.

We believe the simplest approach for credit issuance once third-party verification occurs would be to allocate the credits to the pathway holder. This would result in the credits being issued to a single entity and is most likely to benefit the fuel producer directly. If DEQ chooses to issue credits to the entities reporting against the pathway, decisions will need to be made about how to allocate the credits across potential dozens of entities, including how to proportionally allocate and how to address fractions of credits.

Follow up from January 20, 2022 Reporting Workshop

3Degrees was unable to attend the Reporting Workshop on January 20th, but we offer the following feedback in response to the associated memo.

- 3Degrees is supportive of streamlining rule language about entities that can designate an aggregator. As outlined in our December 2021 comments, designating an aggregator allows eligible credit generators to benefit from the program even if they do not have the

resources to manage program participation themselves or might not otherwise be able to participate directly. We are supportive of this benefit being clearly extend to all credit generators. We also recommend that DEQ add in language stating that the aggregator inherits the priority and any other preferential treatment of the designator.

- 3Degrees agrees with the principle of creating a hierarchy for electricity credit generation between the charger/fleet owner and the service provider/fleet operator.
- 3Degrees agrees with DEQ's proposal to require that the FSE registration be submitted in the first half of the quarter.
- On the topic of changes in ownership (topic 6 in the workshop), we recommend that DEQ broaden the scope of the proposed text to include changes in reporting and credit generation rights amongst aggregators. This language should state that it is the responsibility of the designator (not the prior aggregator) to notify DEQ when an aggregator is no longer acting on its behalf. The designator's FSE, facilities, credit generation rights, etc. that were managed by the outgoing aggregator should then transition to the designator or a new aggregator, as directed by the designator.

Implementing this change would also involve removing the following sentence from [340-253-0100](#)(3)(b): "*An aggregator is responsible for notifying DEQ when its authorization to act on behalf of a credit generator or regulated party has been withdrawn.*"

Thank you for this opportunity to submit comments. We look forward to continued participation and discussion in upcoming workshops.

Sincerely,

/s/ Maya Kelty

Maya Kelty
Director, Regulatory Affairs



Mark Bunch

Regulatory Advisor

C&P – Fuel supply & midstream: biofuel & low carbon

bp America Inc.
30 S. Wacker Drive
Chicago, IL 60606

February 4, 2022

Oregon Department of Environment Quality

VIA Email Transmission

CFP2022@deq.state.or.us

Re: Oregon Clean Fuels Program Expansion 2022 Reporting Workshop Jan. 20, 2022

Dear Department of Environmental Quality Staff:

On behalf of bp America Inc. ("bp"), thank you for the opportunity to participate in the Oregon Department of Environmental Quality's ("DEQ") rulemaking on the Clean Fuels Program ("CFP") as a member of the Rules Advisory Committee ("RAC").

bp's ambition is to become a net zero company by 2050 or sooner, and to help the world reach net zero too. Consistent with bp's ambition, we are actively advocating for policies that address greenhouse gas ("GHG") emissions.

We wish to comment on the workshop topics as follows:

Simplify aggregator language

bp supports the proposed changes to the aggregator language and finds that the proposed approach is sufficiently clear. We believe the proposed changes should apply universally so that all credit generators have the option to designate an aggregator.

Electricity credit generator hierarchy

DEQ proposes to create a hierarchy with the owner having the first priority to generate credits and the service provider/fleet operator having the second priority. bp supports the approach that DEQ proposes.

Fuelling Supply Equipment (FSE) registration submission and registration

While recognizing the issues and concerns raised by DEQ during the workshop, bp believes a 60-day registration limit is more reasonable from a FSE perspective than restricting registration submissions within the first 45 days of the reporting period.

Exempt fuel use documentation

We welcome any steps taken to support the tracking of exempt fuel use, however the fundamental issue for many fuel use exemptions is not the documentation, but the inability of regulated entities above the rack to have line of sight and paper trail to the end use to manage fuel exemption at the point of sale. The statutory requirements for many exempted fuel uses are often unworkable and can unnecessarily lead to fuels being considered regulated under the program due to the burden of proof required to confirm otherwise.

“Production for Import” transaction types

bp supports the DEQ proposals that were presented.

Credit generator fossil vs renewable NG

bp's preference is to have the Oregon program structured the same way as California, where either party can generate credits. It is our opinion that there needs to be coordination between both the fuel dispenser (FSE) and RNG supplier. When a RNG supplier wants to generate LCFS credits they would “opt into” the program and sign up for a CFP account and report activity there.

The fuel dispenser would have to communicate FSE information to the RNG supplier for reporting and credit generation. When a fuel dispenser receives RNG volume from multiple RNG suppliers they would be responsible to insure that reported volumes are not double counted, since they have visibility to the entire volume dispensed as fuel.

Having flexibility for either party will incentivize RNG utilization.

Establishing new transaction types

bp supports DEQ establishing an administrative way to adopt new transaction types through a formalized process.

On the scenario of DEQ adopting an approach similar to new temporary or substitute pathway codes, if a transition type has the potential to change which parties report the transition and/or who owns the obligation, then DEQ may need a hierarchy of transactions, or a similar approach, so the different entities know which to use and to prevent unnecessary conflict between counterparties.

Other simple rule updates

bp supports the simple rule updates proposed by DEQ and has no additional comment to add.

Thank you for the opportunity to comment on these important topics and we look forward to working with DEQ and key stakeholders through this rulemaking process. In the meantime, do not hesitate to reach out to me if you have any questions or need additional context.

Sincerely,



Mark Bunch

February 4, 2022
Submitted via email to CFP.2022@deq.state.or.us



Cory Ann Wind
Oregon Department of Environmental Quality
700 NE Multnomah St., Room 600
Portland, OR 97232-4100

RE: Oregon Clean Fuels Program Expansion 2022 – Comments on Reporting Workshop and Rulemaking Advisory Committee Meeting #2

Dear Ms. Wind,

The Coalition for Renewable Natural Gas (RNG Coalition)¹ submits these comments in response to the public workshop on reporting hosted on January 20, 2022, and the second Regulatory Advisory Committee meeting hosted on January 26, 2022, by the Oregon Department of Environmental Quality (DEQ). Both events were organized in the context of the Clean Fuels Program (CFP) Expansion 2022 Rulemaking. Our comments specifically focus on providing input to questions raised during these events related to renewable natural gas (RNG) credit true ups based on verified CIs, point of credit generation, and electronic tracking.

About the RNG Coalition

The RNG Coalition is the trade association for the RNG industry in the United States and Canada. Our diverse membership is comprised of leading companies across the RNG supply chain, including recycling and waste management companies, renewable energy project developers, engineers, financiers, investors, organized labor, manufacturers, technology and service providers, gas and power marketers, gas and power transporters, transportation fleets, fueling stations, law firms, environmental advocates, research organizations, municipalities, universities, and utilities. Together we advocate for the sustainable development, deployment, and utilization of RNG, so that present and future generations have access to domestic, renewable, clean fuel and energy in Oregon and across North America.

Full Credit Should Be Given Based on Verified Operational CI Scores

With the implementation of third-party verification, DEQ should now shift all crediting to be based on verified operational carbon intensity (CI) scores. We would support a shift to use of verified CIs in crediting, while still retaining the current credit issuance cycle (i.e., truing up to verified CI actuals ex-post rather than delaying crediting until CI actuals are known). We encourage DEQ to adopt a full true up for all pathways.

True ups would be especially helpful for dairy RNG projects. Dairy RNG projects have uncontrollable variability in their CI because their operations are impacted by external factors such as temperature and herd count. Without crediting based on actual verified operational CIs, there will be instances where a project may unexpectedly over or under generate credits, based on these external factors. Allowing

¹ For more information see: <http://www.rngcoalition.com/>

dairy RNG projects to true up their credit generation after completing their verification—rather than penalizing them if they exceed their initially certified CIs—will improve the accuracy of credit generation in the program and ensure that all fuels are obtaining the full value of their true GHG reductions.

We do not recommend that a threshold be set for such a true up. Instead, we believe this can be added as an automated crediting step within the current cycles once verification concludes. We recognize that changes to IT infrastructure may be needed to accomplish this and we recommend coordination with California, Washington, and other jurisdictions on such a change.

None of this should impact the ability of a project to quickly receive a CI from DEQ and begin to generate credits as soon as it is actively producing RNG. Temporary pathways should also be easy to obtain, as an onerous process is an impediment to low carbon fuel project growth. DEQ may also wish to establish a greater number of temporary fuel pathway codes based on a wider variety of RNG feedstock and fuel combinations.²

RNG Suppliers Are Best Positioned to Be Credit Generator, but the Option for Contractual Flexibility Would Be Helpful

At the reporting workshop, DEQ asked questions about who should be the credit generator³ for RNG, especially in the context of a given piece of Fuel Supply Equipment (FSE) switching from dispensing fossil gas to renewable gas. RNG producers and importers have deep experience and proven track records of successfully managing credit reporting obligations from clean fuels programs. Thus, if only one entity is to be chosen as a point of crediting, we recommend that the producers and importers be retained as that entity.

RNG producers and importers can, and do, work closely with other parties (including the owner of the compressors and other pieces of fuel supply equipment at the stations) to be sure that their reporting is accurate and that all forms of necessary documentation are available to demonstrate to the regulator and verifier the claimed volumes dispensed.

Therefore, we would also recommend adding the ability to transfer the opportunity to generate credits to other parties contractually—as the California LCFS allows⁴—should it prove commercially beneficial to do so. The language to allow this could mirror the language currently present for other alternative fuels

² At a minimum we recommend DEQ consider developing a Temporary CI for dairy and swine manure biogas to power and for RNG derived from forest waste/residuals. See our January 7, 2022 comments to the California Air Resources Board for more details: <https://www.arb.ca.gov/lists/com-attach/91-lcfs-wkshp-dec21-ws-BTdWYldmUDIEMgE2.pdf>

³ Per OAR §340-253-0320(2-3): https://secure.sos.state.or.us/oard/viewSingleRule.action;JSESSIONID_OARD=lyPA1o2GpU4UJBeM1ZGfDhv9HoMQdnrBQzx7UZLu9o3SlhqRoUkE!2121836845?ruleVrsnRsn=252467

⁴ See California Code of Regulations §95483(b)(2): <https://casetext.com/regulation/california-code-of-regulations/title-17-public-health/division-3-air-resources/chapter-1-air-resources-board/subchapter-10-climate-change/article-4-regulations-to-achieve-greenhouse-gas-emission-reductions/subarticle-7-low-carbon-fuel-standard/section-95483-fuel-reporting-entities>

(such as alt jet fuel already has in OAR §340-253-0350(2)). We recommend the following addition to OAR §340-253-0320:

“The ability to generate credits for biomass-based or fossil CNG, LNG, L-CNG or any blends of such fuels may be transferred to another entity, so long as the transfer is documented in a written contract between the buyer and seller.”

The M-RETS Tracking System Should be Used to Demonstrate Retirement of Environmental Attributes

We strongly support DEQ adopting an electronic system for tracking the environmental attributes that underly RNG crediting. The RNG industry would prefer one source of truth for determining who can claim the environmental benefits associated with RNG creation and use across all North America. The best tool we’ve seen to track creation and retirement of such environmental attributes for RNG is the Midwest Renewable Energy Tracking System (M-RETS). Oregon’s utility RNG procurement regulation under Senate Bill 98 requires the use of M-RETS in RNG procurement and compliance.⁵ California’s proposed RNG procurement program⁶ is signaling the likely use of M-RETS when programs are fully adopted and implemented.

If DEQ was to also use M-RETS in the CFP and to harmonize with other jurisdictions undertaking similar policies in the use of this uniform registry tool, it will eliminate any potential for unintended “double counting” of environmental benefits. It will also save resources at both RNG project companies and for DEQ. RNG producers and importers prefer to learn and use only one system, rather than a patchwork of state-by-state systems. DEQ can coordinate with other states on enforcement using this tool. Such multi-jurisdictional systems are well proven on the renewable electricity credit world,⁷ and are a helpful step to ensure market confidence about the environmental benefits claimed as the number of RNG sources increases significantly in the future.

Conclusion

RNG Coalition appreciates the opportunity to participate in RAC and public meetings and provide comments in this process. We thank DEQ for their continued leadership on this program. We look forward to participating in the next steps of the 2022 Expansion Rulemaking and are confident that the results of the rulemaking will strengthen the CFP as a model that other jurisdictions will review and replicate.

⁵ Oregon Public Utility Commission, AR632. See OAR §860-150-0050:
<https://apps.puc.state.or.us/orders/2020ords/20-227.pdf>

⁶ California Public Utilities, Decision Implementing Senate Bill 1440 Biomethane Procurement Program, Page 40:
<https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M438/K240/438240736.PDF>

⁷ Oregon has experience dealing with an electronic system used by several other jurisdictions to track environmental attributes in the power sector. The Oregon Renewable Portfolio Standard requires the tracking of renewable energy credits (RECs) by using the Western Renewable Energy Generation Information System (WREGIS): <https://secure.sos.state.or.us/oard/displayDivisionRules.action?selectedDivision=1116> (see OAR 330-160-0020)

Sincerely,

/s/

Sam Wade

Director of State Regulatory Affairs
Coalition for Renewable Natural Gas



Electric Vehicle Charging Association

INNOVATION FOR CLEAN MOBILITY

February 3, 2022

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

Comments in Response to January 20, 2022 Reporting Workshop

EVCA is a not-for-profit trade organization of twelve leading EV charging industry member companies and one zero-emission autonomous fleet operator. EVCA's mission is to advance the goal of a clean transportation system in which the market forces of innovation, competition, and consumer choice drive the expeditious and efficient adoption of EVs and deployment of EV charging infrastructure. Per data from the Department of Energy's Alternative Fuels Data Center, EVCA members makeup 61% of networked level 2 and direct current fast charging stations in Oregon, as of February 2, 2022.

Non-residential credit generator hierarchy

The electric vehicle charging association (EVCA) supports Staff's proposal to implement a crediting hierarchy for non-residential electric vehicle (EV) charging, where the owner of the electric charging equipment has the first right of refusal followed by the service provider, and finally the electric utility and the backstop aggregators. However, we would strongly urge Staff not to impose additional contracts between charging owners and service providers by requiring that a specific letter agreement be signed between the two parties. Charging owners and service providers always have master service and sale agreements in place governing the sale, operation, and servicing of the EV charging equipment, and we propose that Staff accept these agreements as proof of correspondence between the two parties. Enforcing additional contracts over and above existing master agreements will potentially drag out the contracting process and slow down infrastructure deployment. Increasingly, clean fuels program (CFP) credits are bundled into master agreements in exchange for upfront discounts or other benefits. Our members also have concerns that the move to require additional letter agreements may enable utilities (who, based on the January 20 workshop, do not appear to be required to submit a letter agreement) to undercut service providers. Clean fuels program credits are an effective incentive to charging owners and service providers alike to build out the charging network, and we believe implementing additional administrative friction during the contracting process would only slow down this buildout.

FSE Registration Deadlines

We think Staff's proposal to implement a deadline for FSE registrations 45 days into the calendar quarter is sensible and we are happy to work within this deadline to alleviate Staff time.

Thank you,

Dylan Jaff
Government Affairs
Electric Vehicle Charging Association

Sent: Friday, February 4, 2022 1:18 PM

To: Bill.N.PETERS@state.or.us

Cc:

Subject: Comment Associated with CFP Rulemaking Process

Hello Bill:

Earlier today I visited: <https://www.oregon.gov/deq/Pages/Contact.aspx>, where I attempted (unsuccessfully) to make the following comment on behalf of the NW Alliance for Clean Transportation:

“During the second Rulemaking Advisory Committee (RAC) meeting toward extension and expansion of Oregon's Clean Fuels Program (CFP), I became aware that fleets that choose battery-electric vehicle (BEV) technology may be eligible to estimate CFP credit generation and receive a cash payment for value associated with the first six years of estimated CFP generation. These fleets may use this cash payment to cover additional vehicle and/or infrastructure costs associated with making a fuel switch to battery-electric technology. I believe that this advance-credits-to-cash program should be made available to Oregon-based fleets that convert to hydrogen fuel cell and Renewable Natural Gas (RNG) propulsion technologies.”

I'm not sure why I couldn't submit this comment. It may have had something to do with the “I Am Not A Robot” button that is found close to the Submit button.

In any case, I ask that you please submit this comment on the NW Alliance's behalf. I note as well the following members' (copied on this message) interest in this topic:

1. Avista Corporation,
2. Cascade Gas,
3. NW Natural Gas, and
4. The NW Gas Association.

Thanks, and I look forward to our 3rd CFP RAC meeting on Thursday, March 31st.

Be well, and enjoy your weekend!

Warm regards,

Alex

Alex Schay
Membership Services
NW Alliance for Clean Transportation

www.nwalliance.net



March 4, 2022

Ms. Cory Ann Wind, Clean Fuels Program Manager
Oregon Department of Environmental Quality
700 NE Multnomah Street, Suite 600
Portland, OR 97232-4100

Submitted electronically

RE: Third Clean Fuel Program Expansion Comments

Ms. Wind:

Renewable Energy Group, Inc. ("REG") reiterates our support of expanding and accelerating the Clean Fuel Program ("CFP") through this rulemaking. Growing the Oregon CFP is a significant step forward in reducing fossil carbon emissions in Oregon. REG appreciates the opportunity to provide specific comments on the Rule Advisory Committee Meeting on January 26, 2022 and the Pathways Workshop on February 17, 2022.

Regarding additional documentation for credit transfers, in general, REG supports following CARB's approach with a few ideas for improvement on their process below.

We support Types 1, 2, and 3 for credit transfers (LRT screenshot below).

A screenshot of a web interface titled "Credit Transfer" with a close button (X) in the top right corner. Below the title, the text reads "Select the type of credit transfer to initiate:". There are three options listed, each with a "Type" label in a box and a description. Type 1: "Over-the-counter agreement for the sale or transfer of LCFS credits for which delivery will take place no more than 10 days from the date the parties enter into the transaction agreement." Type 2: "Over-the-counter agreement for the sale or transfer of LCFS credits for which delivery is to take place more than 10 days from the date the parties enter into the transaction agreement or that involve multiple transfers of LCFS credits over time." Type 3: "Agreements for the sale of LCFS credits through any contract arranged through a clearing service provider. (Please use this option only if the credit transfer being reported is facilitated by an exchange. Credit transfers facilitated by only brokers with no involvement of an exchange are not considered Type 3 and must be reported as Type 1 or Type 2 accordingly. If you have questions, please contact LRTAdmin@arb.ca.gov)"

However, REG does not support having a log of agreements for Type 2 and Type 3 agreements. The way the CA LRT is currently designed, we need to fill out the commercial terms twice - once



for the agreement and once for the actual transfer. We believe this should only be done once. We would recommend adding the Credit Delivery Type (single or multiple) to the transfer process as well as the agreement termination date (LRT screenshot below). If that occurred, it would also make sense to add a contract identifier field for those contracts with multiple transfers to help market monitoring.

Credit Transfer Agreements

Transfer Agreement Date: *

Seller Organization *:

Seller FEIN: 20-5983996

Buyer Organization *:

Buyer FEIN:

Number of Credits *:

(Total credits anticipated to be transferred under this agreement)

Price per Credit (US dollars): **Note: Either Price per Credit OR Terms of Pricing is required.**

Terms of Pricing:

(Terms used to determine the price for future credit transfer)

Credit Delivery Type *:

Agreement Termination:

* REQUIRED

REG supports additional credit generation opportunities.

Who would get the credits? The producer? The initial importer? Any entity that generated credits using that fuel pathway?

REG supports a process where the producer has first rights to the credits and has the flexibility for the producer to allow the importer to generate the credits if the producer either is not registered or does not wish to do so.

Should there be a significance threshold for this proposal? In other words, should additional credits be generated only if the operational CI is at least 1 gCO₂e/MJ lower than the certified CI? What should that threshold be?

REG supports a similar methodology to the materiality threshold for pathway re-application.



For the second proposal, should producers not subject to verification have any ability to generate additional credits?

REG supports the additional credits being generated after 3rd party verification. This would eliminate the risk of a certified CI exceeding its registration between validation/certification and verification. For example, if a facility receives a certified pathway in Q2 2022 at a 50 CI (temp CI was 65 for Q1), this facility would be allowed to retroactively generate credits for Q1 at the lower CI after the 3rd party verification is completed in August 2023. This puts them on the same timeline for retroactive credit generation as other pathways that have lower verified CI (e.g. a facility with a 52 CI for all 2022, but is verified at a 50 CI during 3rd party verification).

Additionally, REG would like to reiterate our support for expanding the proposed compliance requirements beyond a 25% reduction by 2035. The ICF illustrative scenarios demonstrate a 37% reduction is feasible and REG believes this conservative level of biofuel usage in the illustration will easily be exceeded. Please refer to our previous comments for further details.

REG would like to speak in support of a book and claim system for renewable natural gas and for renewable H₂ used for transportation fuel and H₂ used to produce a transportation fuel. Staff posed four questions in the presentation deck on 2/17/2022. Please see our comments as follows:

1. *What projects or producers would potentially benefit from this allowance of book and claim for hydrogen?*

Renewable natural gas projects, renewable diesel projects, hydrogen used as transportation fuel would all benefit from allowing book and claim of H₂. We support the ability of renewable natural gas (RNG) to use book and claim to qualify RNG for low-CI H₂ production and process energy as well.

The ability to book and claim H₂ on pipeline systems would be beneficial to renewable diesel producers on the pipeline that want to lower their score through securing H₂ from lower CI facilities. H₂ produced at more efficient facilities could lower the ultimate CI score of the fuel shipped to Oregon. Hydrogen production facilities are large and energy intense, so being able to locate them farther away increases the possibility of using renewable energy or new technologies that would be impossible to co-locate otherwise.

We believe it would be positive for renewable fuel producers if facilities could secure the environmental attributes for renewable natural gas and book-and-claim for use as process energy at a plant or for H₂ production. This would also provide a venue for renewable natural gas that would not be used for transportation, give fuel producers a way to lower their carbon intensity, and incentivize more methane capture projects.



2. *For hydrogen used in renewable diesel production, is an attestation-based book and claim accounting option for hydrogen produced from non-fossil resources reasonable so long as it is limited to a hydrogen-only delivery system with multiple sources of hydrogen? Does it provide reasonable assurance/prevent against source swapping, other? Why or why not?*

Yes, an attestation-based book and claim should be sufficient for a hydrogen only pipeline system. We recommend the system be able to book and claim renewable and non-renewable H2 to incentivize lower CI production of H2 at all facilities. Attestations should be backed with an appropriate agreement and documentation of transfers to support the attested transfers.

The attestation and supporting information are reasonable proof for commodity transfers for renewable natural gas and many commodities. Moreover, H2 pipeline systems have an additional level of security compared to book-and-claim on the interstate pipeline system. They are typically proprietary and have very precise tracking to account for all H2 delivered on the system.

Monitoring is crucial due to the safety hazards posed by leaks or ruptures and the need for H2 to produce products where the H2 is being sent. H2 production companies are expected to be able to account for all gas moved on their pipeline much like renewable fuel producers must account for the fuel produced at their production facility.

3. *How do we prevent potential double counting?*

The proprietary nature of H2 pipelines simplifies the auditing needed to ensure no double counting occurs. If an H2 producer over-allocated its lowest CI facility, then it could make up the difference within the other production facilities on the line. Since it would be a single company and not numerous parties, the recordkeeping to confirm compliance would be maintained by one party.

4. *Should the low-CI hydrogen producer apply with the fuel production facility as a joint applicant?*

Yes, having a joint application would give a way to connect H2 producers with renewable fuel producers and ensure the partnerships are visible to OR DEQ staff. The visibility would formalize the relationship by documenting it in the submission to OR DEQ which provides assurance to both parties. We recommend mimicking CARB's approach while adding enhancement to the AFP/AFRS to better connect applications with joint applicants.

We are concerned the term "direct connection" is too constraining. "Direct connection" is used in the proposed language to describe the connection between the H2 production and the ultimate offtake, either to produce fuel or as transportation fuel. We suggest modifying the term to avoid



constraining the connection type to a dedicated connection. A dedicated connection severely restricts sourcing low CI products and innovation since there are often space or resource constraints near existing facilities that preclude them from development without significant expense or impractical measures to comply. We would like to ensure the terminology is not misconstrued in the future.

We recommend using the term “physically traceable to the point of origin” as the term for proving the H2 supply provided on the pipeline network. This term would also allow for the possibility of other modes of transportation, such as truck, rail, barge, or shipping vessel.

We also propose OR DEQ staff consider including provisions to allow book and claim to support the production of methanol. Methanol is the key secondary production chemical used to produce biodiesel. Allowing RNG to be transferred to methanol production facilities using book and claim as a methanol feedstock would provide an opportunity for methanol and biodiesel CI reduction. This would be a welcome development since the production of methanol from biogenic sources has yet to be developed at a commercial scale.

Finally, we ask that staff consider provisions allowing RNG to be transferred with book and claim for process energy at production facilities. This would enable biofuel production facilities to lower their thermal energy CI score, which is difficult to reduce. We encourage staff to use the same framework for process energy as on road transportation by allowing RNG to be balanced on the interstate pipeline system. This change will enable CI reduction at production facilities through RNG use and reduce the GHG emissions of interstate pipeline natural gas used overall.

We support DEQ’s efforts to maintain and expand the program to drive the carbon intensity of transportation fuel used in Oregon ever lower and appreciate your consideration. We are happy to further clarify as needed.

Thank you for the opportunity to present additional comments.

Respectfully,

A handwritten signature in black ink that reads "Curtis Powers".

Curtis Powers, Manager, Compliance Supply Chain Management
Renewable Energy Group

A handwritten signature in black ink that reads "KH".

Kent Hartwig, Director, Corporate Affairs and Development
Renewable Energy Group

From: [Mike Freese](#)
To: [WIND Cory Ann * DEQ](#)
Cc: [Danelle Romain](#); [PETERS Bill N * DEQ](#); ; [DJ Builta](#); [Gabriel OFA](#)
Subject: Clean Fuels Program - Exempt Fuel
Date: Monday, February 28, 2022 8:48:55 AM

Dear Ms Wind:

We are writing to request clarification as it relates to the reporting requirements for the Exempt/Non-Exempt dyed diesel sales under the Clean Fuels Program (CFP). This has been a frustrating area of the regulations for many regulated entities, particularly around documenting when a fuel is being used for an exempt use vs a non-exempt use. We agree with DEQ that the existing regulation for reporting exemptions is not entirely clear. However, rather than increase the burden on fuel wholesalers and retailers (which we perceive will be the case under the new proposed rule), we propose finding a less burdensome option when in reality, we are talking about very small quantities of fuel.

Oregon statute provides that the CFP does not apply to fuel that is demonstrated to have been used in any of the following:

- (a) Motor vehicles registered as farm vehicles under the provisions of ORS 805.300 (Farm vehicle registration).
- (b) Farm tractors, as defined in ORS 801.265 (“Farm tractor”).
- (c) Implements of husbandry, as defined in ORS 801.310 (“Implement of husbandry”).
- (d) Motor trucks, as defined in ORS 801.355 (“Motor truck”), used primarily to transport logs.
- (e) Motor vehicles that are not designed primarily to transport persons or property, that are operated on highways only incidentally and that are used primarily for construction work.
- (f) Watercraft.
- (g) Railroad locomotives.

First, we would like to see if there is simpler, less burdensome approach to documenting exempt fuel sales. For instance, a bulk of our fuel sales are exempt so rather than document all the exemptions, we would prefer only documenting the non-exempt sales.

Second, we would like further clarification around how to document fuel when an offroad vehicle is used for construction work or not. For instance, is the fuel for a bulldozer constructing a road or fire line exempt in the same way a bulldozer fuel is exempt if used in clearing ground for a building?

Again, it would be much simpler and clearer to exempt dyed diesel unless we know that the fuel is sold for a non-exempt use. The cost and burden of this approach would better match the small amount of dyed fuel sold for non-exempt use.

It would be helpful to work through these two items in more detail. Please let us know how we can start to reduce and streamline the burden on our business as we are looking at new regulatory burdens in other emerging programs like the CPP.

Thanks,

Mike Freese

Romain Freese, LLC: [Lawyers & Lobbyists](#)

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Jim Verburg
Senior Manager, Fuels

February 4, 2022

Sent via e-mail to: CFP.2022@deq.state.or.us

Ms. Cory-Ann Wind
Oregon Clean Fuels Program Manager
Oregon Department of Environmental Quality
700 NE Multnomah Street
Portland, OR 97232-4100

Re: WSPA Comments regarding January 20, 2022 DEQ CFP Reporting Workshop

Dear Cory-Ann:

Western States Petroleum Association (WSPA) appreciates the opportunity to provide the Oregon Department of Environmental Quality (DEQ) Clean Fuels Program (CFP) Expansion 2022 Reporting Workshop, held on January 20, 2022. WSPA is a non-profit trade association that represents companies that explore for, produce, refine, transport and market petroleum, petroleum products, natural gas, and other energy supplies in Oregon and four other western states.

Provided below is our feedback on the proposed Clean Fuels Program Expansion 2022 reporting presentation during the Workshop. In addition to the items discussed during the January 20th workshop, please note a key reporting issue in this letter under the heading "Other issues not included in the Staff presentation" for below the rack reporting. WSPA looks forward to additional opportunities to comment on the rulemaking as DEQ further develops regulatory concepts.

Comments on Topics from Staff Presentation

Slides 18-19 - Exempt Fuel Use Documentation

WSPA generally agrees with the approach identified by DEQ as to how to document exempt fuel use but would recommend consideration of other approaches as well. The requirement that a company provides/saves every receipt or invoice is overly burdensome. Alternatively, we recommend that DEQ provide additional options to confirm exempt fuel use such as a redacted contract with a single customer or signed certificate between a supplier and exempt customer.

Further, WSPA recommends that documentation to support exempted fuel uses should allow email communications between regulated entities, noting that DEQ has previously informed regulated entities that emails are acceptable documentation for exempted fuel uses. In addition, we believe that an effective way of categorizing exempted fuel uses would be to allow dyed products to be exempt from the CFP.

WSPA suggests that DEQ adds language to the regulation to exempt dyed fuels from the CFP.

Slides 23-24 - "Production For Import" Transaction Types

WSPA requests that DEQ provide examples of situation where a "Production for Import" transaction type is needed in addition to the existing import transaction type. It is not clear as to under what circumstances is a "Production for Import" transaction type different than an import transaction type. Specifically, examples are needed to assist in identifying the difference between a "Production for Import" transaction and an import transaction, and applicability to both petroleum fuels and low

carbon fuels.

Slide 29 - Establishing New Transaction Types

WSPA does not support the concept of allowing DEQ to create new transaction types outside of a rulemaking. Transaction types need to be well understood by all regulated entities and WSPA does not see a need to create frequently new transaction types. Furthermore, new transaction types require updates to regulated entities reporting systems as well as to the DEQ Oregon Fuels Reporting System (OFRS). These systems need program development time and thorough testing before implementation. Participants in the program need sufficient notice and opportunity to comment on all changes to the program. (i.e., allow 3-6 months for implementation). The CFP reporting is a quarter behind and as a result any changes that are made to the program need to take into account that participants will need to update contracts and ways of working to allow for the program changes.

WSPA recommends that DEQ only approves new transaction types through a well thought-out CFP rulemaking process.

Slide 31 - Other Simple Rule Updates

With regard to Product Transfer Documents (PTDs), WSPA appreciates DEQ desire to track the final disposition of the fuel. However, the seller does not typically control the fuel's ultimate destination. Title and risk of loss passes to buyers when the fuel is transferred from seller's delivery line into the receiving connection of the transportation. Thus, it is the buyer's responsibility to track the fuel once sold. Any update to the rule must recognize the entity who actually has the information to be provided in PTDs (seller versus buyer).

With regard to B99/R99, WSPA recommends that B99 or R99 be reported at 99.9% biodiesel or renewable diesel and 0.1% petroleum diesel as these is the standard values in the industry.

With regard to changing "position holder sale" to "position holder sale without obligation", WSPA requests that DEQ to clarify when such a transaction type would be used (i.e., transaction type be used when transferring product at the rack for export only).

Other issues not included in the Staff Presentation

Throughout the presentation, stakeholders identified concerns with CFP/GHG reporting that were not included in the slides. DEQ staff in response did request feedback along with presentation comments.

GHG Reporting - One concern raised the experience in the implementation of the 2019 GHG rulemaking. The adopted rule has caused, in some cases, overly burdensome reporting requirements for obligated counterparties who sell at the rack:

- Flash sales/exports: Per the regulations, any counterparty who purchased for resale (i.e., flash sales) or is exporting fuel must be tagged in the DEQ system. However, the seller of the fuel is unable to identify what volumes are being resold or exported without being told so by the counterparty. The burden is on the seller to reconcile and requires manual adjustments and many emails to gather and document accurately. WSPA believes that this significant reporting issue needs to be addressed immediately, using the current CFP Expansion 2022 rulemaking process.

- Position holder must tag business partners who are registered parties in the CFP but it is unclear what parties are registered.
- The reconciliation report is leading to unnecessary work because volume discrepancies are being incorrectly flagged.

WSPA suggests that these types of GHG reporting issues be addressed and resolved in advance of finalizing any new rulemaking for CFP reporting. WSPA requests that these reporting concerns in the existing regulations including flash sales/exports be subject to review and potential language modification during the current rulemaking process. Specifically, WSPA would like this significant reporting issue be included as an agenda item for the DEQ CFP RAC #3 Meeting.

3rd Quarter Reporting Deadline - WSPA encourages DEQ to change the third quarter deadline from December 31st to the second Friday of January of the following year. This change would alleviate issues with end of year vacations and holidays, such as last year, December 31, 2021 was a holiday for DEQ (and some businesses) and the reporting deadline was pushed back into January. It would be more effective to change the 3rd Quarter reporting deadline in the regulation to allow for a permanent January deadline.

WSPA appreciates the opportunity to provided comments on this important proposed regulation. If you have any questions regarding this submittal, please contact me.

Sincerely,



James Verburg

Sr. Manager, Fuels

