



State of Oregon Department of Environmental Quality

Written Comments

Clean Fuels Program Expansion 2022 Rulemaking Advisory Committee Meeting 4

This document is a compilation of written comments received related to the forth meeting of the advisory committee for the Clean Fuels Program Expansion 2022 Rulemaking held May 26, 2022.

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June 10, 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 December 2022 Rulemaking Advisory Committee #4 Meeting

Dear Cory Ann Wind,

3Degrees Group, Inc. (“3Degrees”) appreciates this opportunity to provide feedback on the proposed revisions to the Clean Fuels Program (“CFP”). The following comments are in response to the Rules Advisory Committee (“RAC”) Meeting #4 and the proposed rules that were published in conjunction with this meeting.

General support for the proposed rule

3Degrees is generally supportive of the proposed rule. We appreciate Staff’s consideration of comments received and the resulting proposed amendments. In particular, we are in support of proposals to clarify the credit generator for a number of transportation-related credit generation opportunities; to require an electronic tracking system for biomethane certificates; and to develop a Tier 1 simplified CI calculator for biogas-to-electricity pathways.

Supportive of Streamlining Designated Reporting Entity Provisions (with minor revisions)

3Degrees is supportive of streamlining the rule language regarding entities that can designate an aggregator by removing the reference to ‘designating an aggregator’ from the description of individual credit generation opportunities and creating a standalone section that clarifies that any registered party may designate an aggregator to act on its behalf. As noted in previous 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.

To maximize the benefits for eligible credit generators, we recommend two minor revisions to the rule:

- We recommend that DEQ include language stating that the aggregator inherits the priority and any other preferential treatment of the designator. For example, for non-residential charging, this additional language would clarify that if the owner of the electric-charging equipment designates an aggregator, the aggregator supersedes the electric utility as the credit generator.

- Where DEQ has incorporated provisions related to changes in ownership (section 340-253-0100(10)), 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\(3\)\(c\)](#): “An aggregator is responsible for notifying DEQ when its authorization to act on behalf of a credit generator or regulated party has been withdrawn.”

Recommend Revisions to Green-e® Requirements for Biogas-derived Electricity

3Degrees strongly urges DEQ to use this rulemaking to address the conflict that will arise if the Green-e® program moves forward with disqualifying many biogas-derived electricity projects from certification eligibility.¹ As DEQ is aware, Center for Resource Solutions (CRS) is currently in the middle of a stakeholder consultation process for the five-year review of its *Green-e® Renewable Energy Standard for Canada and the United States*. One proposal CRS has put forward is to restrict waste from CAFOs as an eligible feedstock.

Summary of issue

Once the Green-e® rules are updated, significant uncertainty will exist in the market around the current and future eligibility of biogas-derived electricity under the CFP. CRS will begin certifying Green-e® RECs using v4.0 of its standard. If CRS has moved forward with excluding CAFOs as an eligible feedstock, it will no longer certify any RECs from these projects with the exception of limited and temporary legacy exemptions. This will result in a change in CFP REC eligibility without any consultation with DEQ's CFP stakeholders. While DEQ's CFP rules reference v3.5 of the standard, DEQ requires that the RECs **be** Green-e® certified, not just that they meet the eligibility criteria in a specific version of the standard. Even if DEQ moves to re-establish eligibility of these projects after Green-e® v4.0 has been finalized, there would still be a period of at least a quarter or two where RECs from these projects are ineligible for use under Oregon's CFP.

While the Green-e® program has historically allowed legacy exemptions when its rules change, these exemptions are exclusively for RECs that are already under contract at the time the rule changes. The legacy exemption typically does not apply to all projects that were online at the time of the rule change, or even to all projects that have submitted a tracking attestation to CRS. We urge DEQ to consult with CRS to ensure there is a comprehensive understanding of how the Green-e® program would implement legacy exemptions.

¹ See proposed revisions on pages 4, 7, and 8:
<https://www.green-e.org/docs/energy/2022/Green-e%20Standard%20v4.0%20DRAFT.pdf>

Nonetheless, even if CRS implements a more generous structure for legacy exemptions, the Green-e® rule change would result in a treatment of biogas-derived electricity projects that is at odds with the intent of the CFP. The rule change would prohibit any *new* investments in biogas-derived electricity projects, which undermines the CFP's stated goal of continuing to drive incremental and real emissions reductions. This also exacerbates issues previously raised by stakeholders that the CFP rules favor biogas projects that deliver biomethane as a transportation fuel over projects that generate electricity for use as a transportation fuel. Structuring the CFP such that it does not incentivize biogas-to-electricity projects to begin or continue generating electricity is not a desirable environmental outcome.

The CFP should support both biogas-derived electricity and biomethane used as a transportation fuel, not favor one end-use over the other when both have climate benefits. It is true that biomethane is an important climate-friendly solution for hard-to-electrify vehicle applications, such as large trucks and buses, but as a fuel for passenger vehicles, biogas may have the greatest greenhouse gas reduction potential when used to power electric vehicles (see World Resources Institute's [The Production and Use of Renewable Natural Gas as a Climate Strategy in the United States](#), p.15, Box 2). Oregon's CFP should create an equal playing field for both fuel types, allowing technology and markets to decide the most appropriate use for waste-derived biogas.

Recommendation

Given the uncertain eligibility of these facilities under the Green-e® program, 3Degrees recommends that DEQ move forward with revisions to CFP rules that would prevent program disruption if Green-e® revises its eligibility rules. We recommend that DEQ either:

- (a) Remove the requirement for Green-e® certification for biogas-derived electricity by revising 340-253-0470(5)(a) to say:

RECs retired in order to claim a carbon intensity other than the statewide mix or utility-specific mix must be certified by the Green-e Program under the Green-e Renewable Energy Standard for Canada and the United States version 3.5, or by a certification system approved by DEQ as being substantially equivalent, or, in the case of biogas-derived electricity, can be used claim an alternative carbon intensity if they meet all requirements of Green-e Renewable Energy Standard for Canada and the United States version 3.5 with the exception of Section II.A. "Definition of Eligible Renewables".

The intent of this language would be that the RECs meet the online date, vintage, and other requirements established by Green-e®.

or:

- (b) Incorporate language that allows DEQ to develop an alternative process for verifying biogas-derived RECs that could be used in the event Green-e® disqualifies RECs that DEQ has deemed CFP-eligible. We recommend revising 340-253-0470(5)(a) to say:

RECs retired in order to claim a carbon intensity other than the statewide mix or utility-specific mix must be certified by the Green-e Program under the Green-e

Renewable Energy Standard for Canada and the United States version 3.5, or by a certification system approved by DEQ as being substantially equivalent, or by an alternative system DEQ may develop for biogas-derived electricity.

Any alternative process DEQ develops should consider the existing third-party verification requirements for pathways under the CFP and the information that DEQ receives in WREGIS retirement reports.

In either case, DEQ would also need to update 340-253-0640(2)(e) to clarify that alternatives to Green-e® certification exist under the program:

Any entity that claims a carbon intensity using paragraph (2)(d)(A), and is required to receive Green-e certification for RECs by OAR 340-235-0470, must annually submit proof of completion of final verification or a validation statement from the Green-e Program for the RECs used to generate incremental credits. Failure to submit such proof is grounds for DEQ to invalidate any incremental credits issued to the entity under the procedures of OAR 340-253-0670;

Tying biogas-derived electricity eligibility to the Green-e® standard while the eligibility of projects that use waste from CAFOs as a feedstock is under consideration will create uncertainty in the CFP market. This uncertainty will stall investments in these projects until Green-e® has finalized its rule updates, and potentially afterwards while DEQ updates its rules.

Thank you for this opportunity to submit comments. We look forward to continued participation in the development of the CFP rules.

Sincerely,

/s/ Maya Kelty

Maya Kelty
Director, Regulatory Affairs

From: [Diane Hodiak](#)
To: [CFP2022 * DEQ](#)
Subject: Clean Fuels Program Rule Making
Date: Friday, June 10, 2022 9:32:01 AM

To: Clean Fuels Program decisionmakers

Our organization represents about 1,500 stakeholders concerned about environmental justice and emission reductions. We have long recognized the tremendous contribution that the Clean Fuels Program CFP has made to emission reductions for Oregon. For this reason, I urge you to move forward with strengthening this program beyond its prior objectives. .

1. Scientists are alarmed with our lack of progress in emission reductions. Therefore, **expanding reduction targets beyond 20% below 2015 levels by 2030 and 37% below 2015 levels by 2035** is more urgent than ever. We understand the push back from industry, but industry has options, the climate does not. The fossil fuel industry is one of the wealthiest industries on the planet. No where have we seen jobs reduced significantly due to the Clean Fuels program. Any fossil fuel jobs can and are replaced by new jobs in the clean transportation and fuel sectors. The CFP has been gradual from the start, and has already made the accommodations needed to alert industry to adjust their business plans. We don't need more dilution of this policy.

2. **Electrification investments** are critical to ensure clean air for everyone, including vulnerable communities. Any further investments in "supposed clean fossil gas, RNG" or any of its cousins will only prolong our inability to reach emission reduction targets, and should be disallowed from investments by the CFP. These dirty polluting fuels also harm vulnerable underserved communities.

3. The CFP should also consider investment in underserved BIPOC, Tribal, and low income communities. Beyond rebates for electric vehicles please consider:

- **Extend additional rebates for electric bicycles** as they are very cost effective and more widely available than electric cars at this time.
- Work across government agencies: with public housing

and LCDC to **ensure that new apartment buildings have secure storage for electric bikes and on site parking for EV charging.**

4. Explore how to address a big barrier to underserved obtaining electric cars: lender financing which redlines low income individuals. Create a Revolving Loan Fund, or consider supporting lenders in creating loans for BIPOC individuals in order to buy electric cars.

Thank you for this opportunity to comment.

Diane Hodiak
Executive Director
She/Her/Hers

Attend the [GoCleanEnergy.org](https://www.gocleanenergy.org) Conference





Airlines for America®
We Connect the World

June 10, 2022

Submitted via email to: CFP.2022@deq.oregon.gov

Oregon DEQ
Attn: Cory-Ann Wind
700 NE Multnomah St., Room 600
Portland, OR 97232-4100

Re: RAC #4 Public Comment

Dear Cory-Ann:

Airlines for America® (A4A), the trade association for the leading U.S. passenger and cargo airlines,¹ appreciates the opportunity to participate in the Oregon Department of Environmental Quality's (ODEQ) Clean Fuels Program (CFP) Expansion 2022 rulemaking and, through this letter, provide comments on the materials presented at the fourth meeting of the Rulemaking Advisory Committee (RAC), which took place on May 26, 2022.

Before discussing the RAC Meeting #4 materials in Part II below, we provide background on A4A's longstanding commitment to environmental sustainability and the development and deployment of sustainable aviation fuel (SAF), or what ODEQ refers to under the CFP as alternative jet fuel (AJF). Our comments in Part II focus on the draft revisions to Table 3 of the CFP Draft Rules.²

I. Background

The U.S. airline industry has a strong climate record and a continuing commitment to further reduce its climate impact. Between 1978 and 2021, the U.S. airlines improved their fuel efficiency by more than 135 percent, saving over 5.5 billion metric tons of carbon dioxide (CO₂) – equivalent to taking more than 28 million cars off the road on average *in each of those years*. Further, data from the Bureau of Transportation Statistics confirm that U.S. airlines improved their fuel- and CO₂-emissions efficiency by 40 percent from 2000 to 2021.

On March 30, 2021, A4A, together with our member carriers, pledged to work across the aviation industry and with government leaders in a positive partnership to achieve net-zero carbon emissions by 2050 (2050 NZC Goal).³ This pledge continues our longstanding

¹ A4A's members are: Alaska Airlines, Inc.; American Airlines Group Inc.; Atlas Air, Inc.; Delta Air Lines, Inc.; Federal Express Corporation; Hawaiian Airlines, Inc.; JetBlue Airways Corp.; Southwest Airlines Co.; United Airlines Holdings, Inc.; and United Parcel Service Co. Air Canada, Inc. is an associate member.

² Available at <https://www.oregon.gov/deq/rulemaking/Documents/cfp2022m4Rules.pdf>.

³ See <https://www.airlines.org/news/major-u-s-airlines-commit-to-net-zero-carbon-emissions-by-2050/>. On October 4, 2021, the International Air Transport Association and its member airlines followed suit by also

commitment to embracing our responsibility to address climate change and reduce commercial aviation's greenhouse gas (GHG) emissions footprint.⁴

Achieving the 2050 NZC Goal will require continuing the pursuit of an “all of the above” strategy that includes realizing improvements in the efficiency of our operations (including through improvements to the nation's air traffic control system) and in technology, especially aircraft and engines (e.g., winglets that improve aerodynamics). Most importantly, however, consistent analyses show that reaching our 2050 NZC Goal will require access to tremendous quantities of SAF. Put simply, net-zero carbon emissions cannot be achieved unless the production and availability of SAF grows exponentially. Thus, at the same time that A4A and our carriers adopted the 2050 NZC Goal, we also pledged to work with governments and other stakeholders toward a rapid expansion of the production and deployment of commercially viable SAF to make 2 billion gallons available to U.S. aircraft operators in 2030. On September 9, 2021, as a complement to the federal government's announcement of the SAF Grand Challenge,⁵ A4A and our members increased the A4A SAF “challenge goal” by an additional 50 percent, calling for 3 billion gallons of cost-competitive SAF to be available to U.S aircraft operators in 2030.⁶

In sum, rapid, exponential growth in the deployment of SAF is imperative for the successful decarbonization of commercial aviation. As drop-in fuel that currently reduces lifecycle GHG emissions by up to 80 percent compared to conventional, petroleum-based jet fuel while also helping to improve local air quality, SAF is absolutely vital to our sector. Unlike the on-road transportation sector (cars, trucks, buses, etc.), energy alternatives like electricity and hydrogen will not be sufficiently advanced in the near- or mid-term to make a meaningful contribution to the decarbonization of the aviation sector by 2050, meaning that commercial aviation will remain reliant on high energy density liquid fuels for years to come.⁷

Fortunately, we are in a position to succeed because we are not just getting started now. A4A and our members have been working diligently for many years to lay the groundwork for the establishment of a commercially viable SAF industry. In 2006, A4A was instrumental in co-founding the Commercial Aviation Alternative Fuels Initiative (CAAIFI[®]), which seeks to facilitate

committing to achieve net-zero carbon emissions by 2050. See <https://www.iata.org/en/pressroom/2021-releases/2021-10-04-03/>.

⁴ Since 2009, A4A and our members have been active participants in a global aviation coalition. Prior to strengthening our commitment in 2021, we had committed to 1.5 percent annual average fuel efficiency improvements through 2020, with goals to achieve carbon-neutral growth beginning in 2020 and a 50 percent net reduction in CO₂ emissions in 2050, relative to 2005 levels.

⁵ See <https://www.whitehouse.gov/briefing-room/statements-releases/2021/09/09/fact-sheet-biden-administration-advances-the-future-of-sustainable-fuels-in-american-aviation/> and <https://www.energy.gov/eere/bioenergy/sustainable-aviation-fuel-grand-challenge>.

⁶ See <https://www.airlines.org/news/u-s-airlines-announce-3-billion-gallon-sustainable-aviation-fuel-production-goal/>.

⁷ See Federal Aviation Administration, *United States 2021 Aviation Climate Action Plan*, at 18-19 (Nov. 2021) (*U.S. 2021 Aviation CAP*) (“there is no realistic option that could replace liquid fuels in the commercial aircraft fleet in the coming decades”), available at [https://www.faa.gov/sites/faa.gov/files/2021-11/Aviation Climate Action Plan.pdf](https://www.faa.gov/sites/faa.gov/files/2021-11/Aviation%20Climate%20Action%20Plan.pdf).

the development and deployment of SAF.⁸ CAAFI has been integral in obtaining the certification of the seven SAF pathways that are recognized under the ASTM International specification for aviation turbine fuel from alternative, non-petroleum sources (i.e., ASTM D7566) as well as the two co-processing pathways recognized under the ASTM D1655 jet fuel specification. Nearly all A4A member carriers, moreover, have entered into offtake agreements over the past decade with SAF producers in a concerted effort to spur the SAF industry and utilize the fuel. More recently, various A4A airlines have entered into SAF arrangements with corporate and cargo customers as another way to help grow the SAF market. It bears noting, too, that A4A was an original proponent and a key supporter of the addition of AJF as a credit-generating fuel under the CFP on a voluntary, opt-in basis, and a strong supporter of the temporary fuel pathway and associated carbon intensity (CI) values that ODEQ approved last year.

Thus, A4A and our members have been and remain deeply committed to the development of a commercially viable SAF industry – in Oregon, in the broader Pacific Northwest region, throughout the country, and throughout the world.

II. Comments on the CFP Draft Rules

With the above background in mind, A4A offers the following comments on the Draft Rules, and specifically the draft revisions to Table 3.

As an initial matter, A4A does not oppose ODEQ's proposed CFP targets of a 20% CI reduction by 2030 and 37% by 2035, though we observe that achieving an additional 17% CI reduction over a mere 5-year period is extremely ambitious.⁹ For this reason, we fully support ODEQ carrying out a programmatic review in 2029 that includes data through 2028.¹⁰ In particular, we agree with ODEQ that the focus of the review should be "to provide the [Oregon Environmental Quality Commission] with [an assessment of the] progress made in the CFP through the 2028 calendar year and an assessment of whether the 2035 targets remain appropriate or whether modifications are needed."¹¹

⁸ <https://caafi.org/>.

⁹ While draft OAR 340-253-0000(2) is consistent with the statutory direction provided by the Oregon State Legislature in ORS 468A.266(2)(a) (available at https://www.oregonlegislature.gov/bills_laws/ors/ors468A.html) in that the regulatory provision makes clear that the 20% and 37% reductions are relative to 2010 levels, ODEQ indicated during RAC Meeting #3 that these reductions would be measured against "2015 levels." See "Proposed Targets" at 2, available at <https://www.oregon.gov/deq/rulemaking/Documents/cfp2022m3Targets.pdf>. In paragraph 4.A of Executive Order No. 20-04, Governor Brown established "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." See https://www.oregon.gov/gov/eo/eo_20-04.pdf. A4A encourages ODEQ to resolve any discrepancies and abide by ORS 468A.266(2)(a) by using 2010 levels of GHG emissions per unit of fuel energy as the baseline.

¹⁰ RAC Meeting #4 slide presentation at slide 18, available at <https://www.oregon.gov/deq/rulemaking/Documents/cfp2022m4Pres.pdf>.

¹¹ RAC Meeting #3 slide presentation at slide 24, available at <https://www.oregon.gov/deq/rulemaking/Documents/cfp2022m3Pres.pdf>.

While A4A does not oppose ODEQ's proposed 20% and 37% reduction targets for gasoline and diesel fuel, we strenuously object to the application of these targets to AJF and the resulting values that ODEQ has put forth in draft Table 3.¹² This table, of course, is present in the CFP rules solely for the purpose of establishing a benchmark against which to measure AJF for credit generation purposes,¹³ and there is no requirement under the CFP for a regulated party to comply with the annual carbon intensity values set forth in the table.¹⁴

The current version of Table 3 reflects alignment with how AJF is treated under the California Air Resources Board's (CARB) Low Carbon Fuel Standard (LCFS) Program: although the timing differs slightly, under both the CFP and the LCFS Program, the CI benchmark for AJF remains static for several years (2019-2024 in Oregon, 2019-2022 in California) before adjusting to the same value as the CI benchmark for diesel fuel (2025 and beyond in Oregon, 2023 and thereafter in California).¹⁵

The impending identical benchmark for AJF and diesel fuel will finally create credit parity under the respective programs, and thus a level playing field between AJF on the one hand and renewable diesel on the other. Since 2019, AJF has been disadvantaged versus renewable diesel from a credit generation standpoint under both programs due to the higher CI benchmarks for diesel fuel.¹⁶ AJF and renewable diesel often are coproduced in the same facility using the same feedstock, and having the same CI benchmark for both fuels would help promote AJF production, which in turn would stimulate additional renewable diesel production

¹² See footnote 9 above regarding the distinction between 2010 levels and 2015 levels. Notwithstanding this, ODEQ has subtracted from 90.97 gCO_{2e} per MJ, ostensibly the fossil jet baseline for 2015, 12%, 14%, 16%, 18% and 20% to arrive at the draft AJF CI levels for 2026-2030, and 23.4%, 26.8%, 30.2%, 33.6%, and 37% to arrive at the draft AJF CI values for 2031-2035 and beyond. The draft table shows the current 88.87 gCO_{2e} per MJ value for 2025 being stricken, but it fails to show a replacement value.

¹³ See OAR 340-253-1000(5)(a); see also OAR 340-253-0040(7).

¹⁴ See OAR 340-253-0040(27). This reflects the fact that the CFP sets "low carbon fuel standards for gasoline, diesel and fuels used as substitutes or alternatives for gasoline or diesel," ORS 468A.266(1)(a), and so provides – correctly – an exemption for aircraft fuels. OAR 340-253-0250(2)(a)(A).

¹⁵ See OAR 340-253-8010 Tables 2-3; 17 CCR 95484(c)-(d), available at [https://govt.westlaw.com/calregs/Document/I88413CAE13FD4ADB86012CCE34231DE3?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=\(sc.Default\)](https://govt.westlaw.com/calregs/Document/I88413CAE13FD4ADB86012CCE34231DE3?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default)). For all intents and purposes, the CI benchmarks for AJF and diesel will converge under the CFP in 2024, when the difference between them will be only 0.04 gCO_{2e} per MJ. Thus, the convergence schedule under the CFP really only differs from the LCFS Program's convergence schedule by one year.

¹⁶ Assuming the same CI for renewable diesel and AJF, as is the case under the LCFS Program for World Energy's coproduced fuels (see, e.g., https://ww2.arb.ca.gov/sites/default/files/classic/fuels/lcfs/fuelpathways/comments/tier2/b0268_summary.pdf and https://ww2.arb.ca.gov/sites/default/files/classic/fuels/lcfs/fuelpathways/comments/tier2/b0168_summary.pdf), the higher benchmark for diesel versus conventional jet fuel substitutes/AJF necessarily means renewable diesel earns greater credit than AJF.

given the fuels' coproduction.¹⁷ Other market factors – for example, the higher spot price that diesel fuel generally commands compared to conventional jet fuel and the rigorous jet fuel specifications that make producing jet fuels a “higher technical hurdle” than producing on-road fuels – already encourage renewable diesel production over AJF. There simply is no need for ODEQ, in the CFP Expansion 2022 rulemaking, to alter its current approach and tip the scales in favor of renewable diesel production even further by allocating it greater credit than AJF after 2025.

It bears emphasizing that when ODEQ promulgated the current version of Table 3 in late 2018, it exercised discretion by not establishing for AJF the same year-over-year CI reductions as for diesel fuel (and gasoline). Indeed, the table currently in effect reflects a 2.31% CI reduction for AJF in 2025 from the 90.97 baseline value (rather than a 10% reduction). There is no rational justification for ODEQ to reverse course now and subject AJF to the same rigid CI reduction schedule that ODEQ intends to propose for Tables 1 (gasoline) and 2 (diesel), i.e., 20% by 2030 and 37% by 2035. Doing this would only perpetuate the unlevel playing field that presently exists under the CFP between AJF and renewable diesel.¹⁸ In other words, eliminating the credit parity that is due to take hold between the two fuels in 2024/2025 would send a clear, unmistakable message to fuel producers that Oregon, by rewarding greater credit under its CFP to renewable diesel, values renewable diesel for the on-road sector more than it values AJF for the undeniably harder-to-decarbonize aviation sector. Not only would this be unwarranted and regrettable, especially in view of the critical importance of SAF “to the long-term decarbonization of aviation,”¹⁹ but it would eliminate the programmatic consistency that exists between the CFP and the LCFS Program with regard to the treatment of AJF and renewable diesel (i.e., eventual credit parity for the two alternative fuels).

Instead of the revised values that ODEQ has put forth in draft Table 3, A4A encourages ODEQ to exercise discretion again and propose for 2025 and all years thereafter AJF values that are equivalent to the values set forth in draft Table 2 (i.e., diesel and diesel substitutes) for those years. As discussed above, equivalent CI benchmarks for AJF and diesel substitutes would ensure a level playing field between AJF and renewable diesel beginning in 2025 and continuing through 2035 and beyond, thereby demonstrating that Oregon is committed to the decarbonization of the aviation industry. In an effort to attract AJF imports from outside the state sooner, ODEQ should also consider accelerating by two years (i.e., move up to 2023 from 2025) the point at which absolute credit parity would exist for AJF and renewable diesel (again, assuming the same CI score for both fuels). This would create even stronger alignment between the CFP and the LCFS Program and could be accomplished by proposing to make the 2023 and 2024 values in existing Table 3 equivalent to the 2023 and 2024 values in existing Table 2.

¹⁷ See National Renewable Energy Laboratory, “Effect of Additional Incentives for Aviation Biofuels: Results from the Biomass Scenario Model,” available at https://ww3.arb.ca.gov/fuels/lcfs/lcfs_meetings/031717nrel_presentation.pdf.

¹⁸ As ODEQ undoubtedly knows, zero gallons of AJF had been fueled into planes in Oregon through the end of 2021. By comparison, almost 44 million gallons of renewable diesel had been imported into the state since the beginning of 2019, when AJF first became a creditable fuel on a voluntary, opt-in basis. See <https://www.oregon.gov/deq/ghgp/Documents/cfpQ4data2021.xlsx>.

¹⁹ *U.S. 2021 Aviation CAP*, at 18.

* * *

Thank you for your consideration of our comments. Please do not hesitate to contact me if you have any questions.

Sincerely yours,

A handwritten signature in black ink that reads "Ira Dassa". The signature is written in a cursive style with a large initial "I" and a long, sweeping underline.

Ira Dassa
Director, Environmental Affairs



Mark Bunch

Regulatory Advisor

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

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

June 10, 2022

Oregon Department of Environment Quality

VIA Email Transmission

CFP2022@deq.state.or.us

Re: Oregon Clean Fuels Program Expansion 2022 RAC #4 Meeting, May 26, 2022

Dear Department of Environmental Quality Staff:

On behalf of BP America, Inc., 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.

As we reach the end of the rulemaking development, bp wishes to recognize DEQ staff for their efforts and for proficiently managing stakeholder engagement. We look forward to working with DEQ as the final rule is promulgated.

With respect to the overall rulemaking, we suggest that DEQ consider the following comments.

Program Targets

The expansion of the Carbon Intensity ("CI") targets to 20% below 2015 levels by 2030 and 37% below 2015 levels by 2035 is predicated upon ICF's March 2022 report¹ that recommends diversifying and expanding the opportunities for credit generation outside of Zero Emission

¹ <https://www.oregon.gov/deq/rulemaking/Documents/cfp2022m3CreditGeneration.pdf>

Vehicles (“ZEVs”) and other traditional biofuel options. In the Draft Fiscal Impact Statement² (“FIS”) for the rulemaking under the “Expansion of the targets” section, it states that:

These targets are: achievable with multiple paths to compliance from different combinations of low-carbon fuels and set at a level that balances the need to incentivize continued improvements in all fuels while supporting the deployment of mandated zero emission vehicles.

It is difficult to plan for investment in non-ZEV decarbonization opportunities if “the level of balance” is calibrated against ZEV progression. Capital investment in non-ZEV major projects (such as upstream improvements for ethanol, carbon capture and storage, refinery investment projects and refinery hydrogen projects, as identified in the ICF March 2022 report) is unlikely without the supporting regulatory framework in place.

Under the “Fiscal and Economic Impact” section of the proposed updates to the FIS, it states that:

The program’s long-term targets provide transportation fuel market participants a better understanding of the future regulatory environment, the economic incentives created by the program, and the opportunity to better plan for the transition that is ahead.

While DEQ has done a thorough job of providing certainty through 2035 for the CI targets, regulatory uncertainty remains regarding additional credit generating opportunities. bp supports DEQ’s approach to CI target setting, and also seeks additional options for credit generation, as was highlighted in our previous comment letters.³

We urge DEQ to provide the regulated community with certainty about the potential timing and content for updates to the rule for additional credit generating opportunities so that the market has “the opportunity to better plan for the transition that is ahead.”

Aviation Sector Decarbonization

This sector will continue to struggle with access to biofuels production without transitional regulatory design features to enable it to compete with the ground transportation decarbonization sector. There are numerous potential opportunities for DEQ’s consideration that should warrant a future workshop on this topic. To date, Air bp has supplied Sustainable Aviation Fuel (“SAF”) at over 20 locations across three continents. Across the globe we are working to create more demand in the short-term which will lead to more SAF production and hopefully lower costs in the future. We welcome the opportunity to further engage with DEQ and key stakeholders on how regulations can be designed to support aviation sector decarbonization in Oregon.

² <https://www.oregon.gov/deq/rulemaking/Documents/cfp2022m4FIS.pdf>

³ s. <https://www.oregon.gov/deq/rulemaking/Documents/cfp2022m3Com.pdf>

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

Sincerely,

A handwritten signature in blue ink, appearing to read "M. Bunch". The signature is stylized with a large, looped initial "M" and a cursive "Bunch".

Mark Bunch



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

June 10, 2022

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

ChargePoint Comments on the Clean Fuels Program Expansion 2022 Draft Rules

ChargePoint would like to thank the Department of Environmental Quality (DEQ) for the opportunity to provide comments on the draft rules related to the Clean Fuel Program's (CFP) expansion. ChargePoint supports the expansion of the CFP and is committed to continuing to build out an electric vehicle (EV) charging network in support of Oregon's climate and zero emission vehicle goals.

ChargePoint is one of the world's largest EV charging networks and solution providers with more than 180,000 Level 2 and direct current fast charging (DCFC) stations on its network. ChargePoint designs, manufactures, and sells networked charging stations and works with major employers, municipalities, utilities, fleet operators, real estate developers, and individual drivers to deploy and operate charging stations across North America and Europe to enable the electrification of transportation.

Expansion of the Clean Fuels program will help accelerate investments in low carbon fuel technologies like EV charging and the decarbonizing of Oregon's transportation sector. ChargePoint is generally supportive of DEQ's proposal to expand the program's ambition but has concerns about specific proposals in the draft rules, including provisions that may unintentionally create an uneven playing field between utilities and other market participants. We expand upon these concerns below.

ChargePoint supports DEQ's proposal for a 37% carbon intensity target in 2035 but suggests a smoothed CI schedule starting in 2026.

ChargePoint supports the proposed 37% CI target in 2035 and commends DEQ for its leadership in this area. If finalized, this target would represent the most ambitious CI target among North American clean fuels programs, setting the bar for other jurisdictions to follow. With EV sales in the US nearly doubling year-over-year in 2021¹ and this trend set to continue, the time is now for governments to lean into electrification and decarbonization to achieve short term climate goals on the way to deep decarbonization. The proposed 37% CI target sends the message to the market to invest in and bring more, cleaner fuels to the Oregon market. As the California credit market has shown, clean fuel suppliers will respond to enhanced CI targets to increase supply and bring down credit prices over time.

We recommend DEQ consider smoothing the CI schedule on the way to 37% by 2035, with 2.7% per year CI decreases starting in 2026. This would bring more CI reductions earlier in the program resulting in a 24% interim target in 2030 – not significantly different than the proposed 20% by 2030 interim target – and help mitigate potential credit price volatility between 2030 and 2035 resulting from the proposed 17% over five-year CI reduction. With California and Oregon markets in a state of surplus, this accelerated CI schedule would help absorb excess credits in the market today and send a positive demand signal to suppliers and investors.

¹ Bloomberg New Energy Finance 1Q 2022 Electrified Transport Market Outlook



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Charging networks should continue to be the back-stop credit generator for networked non-residential on-road charging. If utilities are given this role, additional rules are needed around data integrity and reinvestment.

The proposed rule change to allow utilities, rather than EV charging networks, to act as the backstop credit generator for non-residential on-road charging raises some concerns. First, access to accurate and specific EV charging data may be limited for utilities. It is our understanding that utilities would depend on charging data collected either from utility metering if the charging stations are separately metered from other loads, which is not always the case, or through estimation, similar to how residential charging is currently calculated. This approach risks decoupling EV credit generation from actual charging, and sets a bad precedent in clean fuels programs at a time when Oregon is positioning itself as a leader. It would be more appropriate for utilities to serve as the backstop generator for non-networked stations and enable charging networks to be the backstop generator for networked non-residential on-road charging. Charging networks provide and have the ability to accurately and easily track electricity dispensed from these charging stations. At a time when clean fuels programs are gaining momentum across North America and bringing more transportation emissions under regulation, programs should adhere to the data-based approach to lifecycle assessment and credit generation to ward off detractors and create robust, science-based programs capable of being exported to additional jurisdictions.

Second, Oregon would benefit from stronger requirements on reinvestment of revenue by the backstop credit generator. Charging networks like ChargePoint, whose entire businesses is EV charging, are directly investing in designing, deploying, and maintaining charging infrastructure in the state. ChargePoint currently has 578 public stations deployed in Oregon, the majority of which were privately funded by businesses, municipalities, colleges and universities, that are seeking to provide on-road charging options for their customers.² Revenue from the Oregon Clean Fuels program supports these investments and helps to grow infrastructure in the state. If utilities are to become the backstop credit generator for non-residential charging, DEQ should consider adding explicit requirements within the regulation in the 2022 CFP Expansion requiring utilities to reinvest these proceeds back into transportation electrification and infrastructure. One option for reinvestment that would positively advance the industry would be to set aside these proceeds to match National Electric Vehicle Infrastructure funds in the state. Section 340-253-0640 (9) of the CFP requires utilities receiving base or incremental credits to report on credit revenue spending but does not specify how expenditures need to advance transportation electrification, benefit Oregonians, or return value back to EV drivers and site hosts. Rules around the reinvestment of base credits – which constitutes the majority of credit revenues – are particularly vague. If utilities are to be freely granted unclaimed non-residential credits, DEQ must ensure that utilities reinvest those proceeds in additional infrastructure and/or driver benefits.

Inclusion of utilities in the CFP advance credit provision

The advanced credit provision is a landmark feature of the CFP and enables municipalities, school districts, public transits, and tribes seeking to electrify fleets and install charging to utilize this special provision to cover up front costs. The draft rule proposes to add utilities to this provision. Utilities already have access to capital not available to other entities in the state, including the ability to rate base charging equipment, pursuant to SB 314, HB 3055, and HB 2165. Enabling utilities to use their existing advantage in the state to further leverage advanced credits could negatively impact the competitive market for EV charging in Oregon.

² US Department of Energy Alternative Fuels Data Center



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If utilities are added to the advance credit provision, then DEQ should also enable charging networks and non-utility businesses investing in public fleets and charging to access this same provision. This would create a more level playing field in the state.

Otherwise, utilities should not be added to this list. Advance credits are a more complex pathway under the program and carry a degree of financial risk that municipalities, school districts, public transits, and tribes may be less willing to bear than utilities. As a result, utilities may fully subscribe advance credits and crowd out the other eligible entities. If the aim is to enable utilities to apply for and manage advance credits on behalf of municipalities, school districts, public transits, and tribes, that is already allowed under section 340-253-1100 (2) (E).

Sincerely,

A handwritten signature in black ink that reads "Evan Neyland". The signature is written in a cursive, flowing style.

Evan Neyland
Senior Manager, Carbon Markets



Clean Fuels
ALLIANCE AMERICA

June 10, 2022

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

Re: Comments on Clean Fuel Program Expansion, RAC Meeting #4

Dear Ms. Wind:

Thank you for the opportunity to provide comments on the expansion of the Oregon Clean Fuel Program (CFP) through the current rulemaking. Clean Fuels Alliance America (Clean Fuels) supports the expansion and strongly encourages DEQ to implement deeper and accelerated carbon intensity reduction targets as expeditiously as feasible. Clean Fuels supports and incorporates by reference the June 8, 2022, comments submitted by our member, Renewable Energy Group, and other comments you may receive from our members. We applaud DEQ staff's bold leadership in pursuing a 37% reduction target by 2035, but like REG, we also believe a steeper 2030 target of 30% is feasible and would encourage DEQ to implement such a standard.

With respect to Indirect Land Use Change (ILUC), we are disappointed with but understand DEQ's decision to not update the OR-GREET accounting tool or discuss ILUC in this rulemaking. However, like REG, we strongly urge DEQ to update expeditiously the soybean and canola ILUC penalties with the latest scientific work published by Argonne National Laboratory, the gold standard in the science of lifecycle assessments. The ILUC penalties currently used by California do not reflect real world observational data developed since CARB's 2015 rulemaking, which itself was based on data that are over a decade old. Oregon's current practice of using the Argonne model for assessing corn ethanol's ILUC score – but not for soy and canola biodiesel – is not just scientifically and methodologically inconsistent, it results in an artificial distortion of the decarbonization signal that is at the heart of the CFP. As DEQ has clearly stated, the state will have “continued demand for low-carbon liquid fuels for decades.” With biodiesel and renewable diesel forecasted by DEQ to provide up to 59%¹ and 54%² of the CFP carbon reductions in 2021 and 2022, respectively, and these reductions occurring in the most difficult to decarbonize sectors, it is imperative that the state's carbon scoring system reflect a level playing field by employing the most current science for all fuels subject to the rule.

¹ [OR DEQ 2021 Clean Fuels Forecast](#), at 6.

² [OR DEQ 2022 Clean Fuels Forecast](#), at 6.

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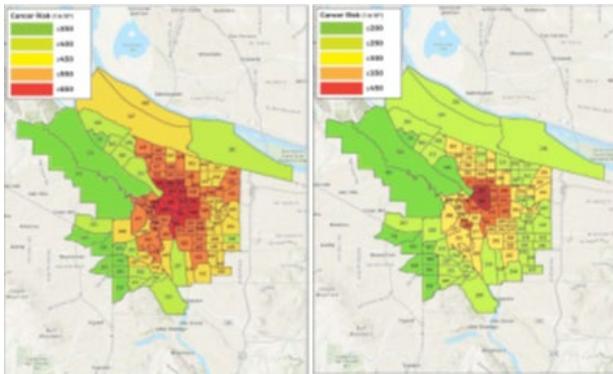
In addition to the CFP's largest portion of GHG reductions, renewable diesel and biodiesel provide substantial reductions in co-pollutants, especially diesel particulate matter (DPM). As noted in the recent Trinity Study,³ the replacement of petroleum diesel with biodiesel in 27 high-diesel use sites evaluated across the country can reduce cancer incidences by nearly 9500, premature deaths by more than 910 per year, asthma cases by over 456,000 per year, and other health benefits, all totaling \$7.7 billion annually from avoided health costs.

In Portland alone, the Trinity Study shows a switch to biodiesel in older legacy vehicles would decrease diesel PM exposure significantly, reducing nearly 13 premature deaths each year, asthma attacks by over 7,000 each year, and lost workdays by over 1,400 annually, all totaling about \$113 million in avoided health costs each year (Fig. 1).⁴

Fig. 1. Projected Cancer Risk Reduction and Other Health Benefits by Switching to Biodiesel

B100 BENEFITS: PORTLAND, OR – TRANSPORT

Cancer Risk Pre/Post-Switch to B100 (Up to 83 fewer cases)



Valuation of Reduced Incidence Benefits		
Endpoint	Reduced Incidence	Benefit Value
Premature Mortality	12.7	\$110,964,716
Asthma Exacerbation	7,003	\$412,460
Minor Restricted Activity Days	8,638	\$582,248
Work Loss Days	1,423	\$582,248
Total		\$112,541,672

Reduction in Health Impacts					
Baseline Cancer Risk (1 in 10 ⁵)	Cancer Risk Reduced to (1 in 10 ⁵)	Change in Cancer Risk (1 in 10 ⁵)	Baseline Tot. Cancer Burden (for study location)	Tot. Cancer Burden (for study location)	Change in Cancer Burden (for study location)
651	363	288 (44%)	189	106	83 (44%)



Source: https://www.biodiesel.org/docs/default-source/trinity-study/trinity-nbb-transportation-health-risks-review-v1-03.pdf?sfvrsn=ec0f774a_2.

³ See <https://www.biodiesel.org/news-resources/health-benefits-study>, accessed May 25, 2022. [Note the 27 sites includes 15 sites under Phase 2, which was completed in Q2 2022.]

⁴ See Phase 1 of the Trinity Study, https://www.biodiesel.org/docs/default-source/trinity-study/trinity-nbb-transportation-health-risks-review-v1-03.pdf?sfvrsn=ec0f774a_2, accessed May 25, 2022.

These benefits are especially important for disadvantaged and EJ communities, many of which are located at or near sites that still use high levels of petroleum diesel. At these sites, there are significant numbers of legacy vehicles that can benefit from the reduced DPM emissions which biomass-based diesel provides. And these sustainable diesel replacements would benefit even the more modern, 2007 and newer engines by reducing their GHG emissions and particle loading of the diesel particulate filters, thereby improving their longevity and maintenance.

Finally, it's important to note the key role renewable diesel and biodiesel are playing in displacing petroleum diesel, keeping the anthropogenic carbon emissions associated with fossil fuels like petroleum diesel from further exacerbating the climate crisis. In California and Oregon, these sustainable diesel replacements are projected to displace over 1.3 billion gallons⁵ of petroleum diesel in 2021 alone.

As noted above, the ILUC penalties for soy and canola serve as barriers to deeper deployment of biodiesel and renewable diesel in the most difficult to decarbonize sectors (heavy duty on- and off-road, marine, and rail). Thus, to maximize the GHG and public health benefits of biodiesel and renewable diesel, it is imperative that DEQ address the ILUC penalties and implement the other enhancements identified in REG's comments expeditiously so these benefits can accrue for all Oregon residents, especially those in environmental justice communities who are being exposed to high level of diesel PM from the use of fossil fuels.

Conclusion

Thank you for your consideration of these comments. We appreciate the leadership you and your staff have shown and your willingness to consider stakeholder input, including but not limited to the establishment of the Rulemaking Advisory Committee (RAC). We have enjoyed our strong partnership over the years and look forward to the state implementing the most robust carbon intensity reduction targets on the West Coast. To that end, we look forward to working with you and your staff to update and enhance the program further as noted above.

Sincerely,

A handwritten signature in blue ink, appearing to read "Floyd Vergara".

Floyd Vergara, Esq., P.E.
Director of State Governmental Affairs
Clean Fuels Alliance America

⁵ LCFS Dashboard and CFP Clean Fuels Forecasts, op cit.

Clean Fuels Program
Department of Environmental Quality
700 NE Multnomah St., Suite 600
Portland, OR 97232

June 10, 2022

RE: Clean Fuels Program Expansion - RAC Meeting #4 Comments

DEQ Clean Fuels Program Staff,

Thank you for the opportunity to provide written comments following the Department of Environmental Quality (DEQ)'s fourth Clean Fuels Program Expansion Rulemaking Advisory Committee (RAC) meeting. On behalf of the undersigned organizations, we write to express our strong support for adopting an ambitious Clean Fuels Program expansion, and submit for your consideration our recommendations for strengthening DEQ's proposed draft rule language and fiscal impact statement, as well as feedback on DEQ's draft racial equity impact statement.

An ambitious Clean Fuels Program provides not only the opportunity to cut emissions from Oregon's top polluting sector, but to create jobs, improve public health, and enhance the vibrancy and resiliency of Oregon communities. We urge DEQ to maximize these benefits under the program by:

- a) Meeting the level of ambition that science demands, by expanding the carbon intensity reduction targets **beyond** 20% below 2015 levels by 2030 and 37% below 2015 levels by 2035;
- b) Working to ensure that carbon intensity reduction targets are achieved through electrification as much as possible; and
- c) Prioritizing equitable economic outcomes, by encouraging credit-generating utilities to fund affordable and accessible public charging infrastructure in underserved areas such as low-income, BIPOC and rural communities.

In addition, we urge DEQ to amend its draft Fiscal Impact Statement (FIS) for the Clean Fuels Program to more accurately quantify and capture the extensive health and jobs benefits of the program. As currently drafted, the economic benefits identified are extremely conservative estimates, whereas the costs of the program are overestimates.

We offer the following comments to strengthen the proposed rules and draft FIS along these lines. Thank you in advance for your consideration.

I. Draft rules

a) Targets

In recent years, Oregon has unfortunately become the poster child for climate change, making international headlines for our deadly and devastating climate-fueled heat waves, wildfires and drought.

The June 2021 heat dome alone killed more than 100 Oregonians¹; threatened our state’s economic recovery by shuttering small businesses and impacting local tourism²; and compounded our ongoing public health crisis by worsening air quality³ and disproportionately affecting environmental justice communities. Oregon has a responsibility to address its share of this global challenge. It is unconscionable to continue putting the lives and livelihoods of our workers, frontline communities, children and grandchildren at risk; DEQ must use every tool at its disposal to immediately cut the fossil fuel emissions that are destabilizing the climate.

Oregon’s climate tragedies are grim visual evidence of what scientific consensus has long concluded. The April 2022 United Nations’ Intergovernmental Panel on Climate Change (IPCC) report stated unequivocally that current policies to limit climate emissions will not be sufficient to avoid catastrophic and irreversible climate impacts, only further underscoring the need for urgent action by decision-makers in Oregon to significantly and immediately cut fossil fuel emissions.

DEQ’s Clean Fuels Program Expansion provides a crucial opportunity to achieve significant emissions reductions from Oregon’s top polluting sector: transportation. By establishing ambitious carbon intensity targets, DEQ will help create jobs in the clean fuels economy, improve public health by reducing harmful co-pollutants from tailpipe emissions, and invest in local communities and economies. Strong carbon intensity reduction targets are essential to the Clean Fuels Program and for moving the needle on climate emissions and co-pollutant reductions in the transportation sector.

While we support DEQ’s proposal to extend and increase the CFP’s carbon intensity reduction targets to 20% below 2015 levels by 2030 and 37% below 2015 levels by 2035, these proposed targets represent the minimum level of ambition that is feasible and which DEQ should strive for.

Adopting stronger carbon intensity targets is not only necessary; it is entirely feasible. While DEQ’s proposed targets are the most ambitious of the scenarios modeled in ICF’s illustrative compliance scenarios, ICF’s modeling assumptions were based in conservative estimates. For instance, Scenario C of ICF’s modeling assumed merely compliance with existing policies—namely, SB 1044 and DEQ’s medium-duty and heavy-duty electric vehicle standards—and assumed only up to 35% renewable fuels.

However, with the recent adoption of the Clean Truck Rules, the recent influx of significant Infrastructure Investment and Jobs Act funding to advance transportation electrification and public transit, the anticipated adoption of the Advanced Clean Cars II rules requiring 100% electric vehicle sales by 2035 and the City of Portland’s expected Renewable Fuels Standard update that will increase the requirement for renewable diesel to nearly 100%, and more, Oregon will more than likely exceed 35% renewable fuels by 2030 and 2035. Additional trends point to increased clean fuels uptake and reduced oil dependency,

¹<https://www.opb.org/article/2021/08/06/oregon-june-heat-wave-deaths-names-revealed-medical-examiner/#:~:text=The%20heatwave%20led%20to%20more.occuring%20in%20the%20Portland%20area.&text=Shandas%20said%20it's%20rare%20%2D%20and,on%20mortality%20during%20a%20heatwave.>

²<https://www.kgw.com/article/news/local/max-lines-businesses-close-due-to-excessive-heat/283-094c46c6-5b2e-4836-9e04-46b6ba6f593d>

³ <https://www.oregon.gov/newsroom/pages/NewsDetail.aspx?newsid=64009>

including increased telecommuting, more Original Equipment Manufacturers (OEMs) committed to 100% ZEV production⁴, and utility programs for increased public and at-home charging.

With these assumptions, a carbon intensity reduction of at least 45% below 2015 levels by 2035 would be easily achievable, and would serve to maximize other benefits achieved under the program, including economic investment, job growth, and improved public health outcomes.

b) Maximize electrification and limit use of RNG as a fuel pathway

As our organizations have expressed in previous comments, to maximize climate emissions reductions, health benefits, and cost-effectiveness, carbon intensity reduction targets can and should be achieved through electrification as much as possible. While an ambitious carbon intensity reduction target serves as the backbone of the Clean Fuels Standard, we also urge DEQ to be thoughtful about the potential fuel pathways that could achieve these targets. Specifically, it is important to note that increased carbon intensity targets do not guarantee any given fuel pathway.

Likewise, in order to maximize emissions reductions and co-benefits under this program, it is critical to ensure that—as the Clean Fuels Standard gets stronger—early investments in the program do not result in perverse long-term consequences. We therefore urge DEQ to be cautious not to reward early emissions reductions that may not achieve meaningful carbon intensity reductions in the future. There may be a lot of competition for RNG throughout the economy, and transportation may not be the highest and best use for these limited molecules.

c) Definitions

We also have some concerns around some of the proposed definitions in the rules. In particular, we are concerned by DEQ’s proposed definition for renewable hydrogen as, “Hydrogen derived from (1) electrolysis of water or aqueous solutions using solar and wind-generated electricity; (2) catalytic cracking or steam methane reforming of biomethane; or (3) thermochemical conversion of biomass, including the organic portion of municipal solid waste (MSW).”

While we support the inclusion of part one of the definition, which refers to “green” hydrogen (e.g. that which is derived from electrolysis using renewable energy), we are concerned by the inclusion of part two and three of the definition, which are problematic in that they refer hydrogen which is derived from catalytic cracking or steam methane reforming of biomethane. Hydrogen not derived from 100% renewable energy will incentivize the development of hydrogen infrastructure and generation of hydrogen that is not renewable. Hydrogen production is still in its infancy and the Clean Fuels Program should not incentivize hydrogen production that is not 100% renewably-sourced.

d) Transitioning fuels from clean to regulated

⁴<https://www.repairerdrivennews.com/2022/06/09/buick-announces-all-ev-lineup-by-2030-makes-vehicle-connectivity-services-standard-equipment/>.

We urge DEQ to consider assigning fossil-derived hydrogen a higher CI score based on continued evidence that fugitive methane emissions are greater than expected throughout the natural gas life cycle, such that it is considered a regulated fuel. While hydrogen has no tailpipe emissions, if it is produced using natural gas (as is currently the case for 95% of hydrogen), it should not be considered a [low-emission fuel](#), even when accounting for carbon capture. Labeling all hydrogen as a clean fuel may lead to unintended consequences of creating fossil fuel-derived hydrogen infrastructure that will not help us meet our greenhouse gas emission goals.

II. Draft Fiscal Impact Statement

We urge you to amend the draft fiscal impact statement (FIS) to more accurately capture the extensive health and jobs benefits of the Clean Fuels Program. The economic benefits identified are extremely conservative estimates, whereas the costs of the program are overestimates. And even so, the benefits of the proposed rules nearly offset even the highest estimate of compliance costs.

For example, \$84 to 87M in realized health benefits is a significant underestimate because it doesn't calculate the cumulative benefits. There are higher health benefits in the interim years while older, dirtier diesel engines are still on the road. Further, it doesn't take into account health benefits and cost savings from reductions in other criteria pollutants. While the program rewards reductions in lifecycle emissions, which often reduces co-pollutants, the FIS doesn't quantify reductions in pollutants beyond the tailpipe. It also doesn't quantify other economic benefits - job creation, investments, new tax base, waste reduction, and so forth.

In addition, while we appreciate the inclusion of \$916 million in benefits when using the federal estimate of the social cost of carbon, this is an extremely conservative estimate. Climate change is already producing devastating economic impacts in Oregon, and the destruction caused by recent climate-fueled wildfires, droughts, and heat waves have price tags in the billions of dollars. The 2020 Labor Day fires alone destroyed more than 4,000 homes and killed 11 people. The healthcare costs associated with Oregon wildfires are incredibly high; according to an analysis by NRDC, Oregon's 2012 fire season cost the state \$2.1 billion in healthcare costs alone.⁵ Moreover, the costs associated with wildfires and other climate-fueled disasters are projected to rise dramatically as the climate crisis worsens. According to the World Resources Institute, the annual economic damages from climate change could equate to 10% of US GDP by 2100.⁶

Last summer's unprecedented climate-fueled heatwave—which sent thousands of people to emergency rooms for heat-related illness and killed more than 110 people across the state—further underscored these impacts. Dozens of small businesses were forced to close shop as a result of the extreme temperatures. Just last month, Oregon OSHA issued permanent rules requiring employers to implement protective measures for workers from excessive heat and wildfire smoke. Further, with 63% of Oregon currently

⁵ Vijay Limaye & Juanita Constible, *Up in Smoke: Oregon Wildfires Cost Billions in Health Harms* (Oct. 2, 2019), <https://www.nrdc.org/experts/vijay-limaye/smoke-oregon-wildfires-cost-billions-health-harms>.

⁶ Joel Jaeger & Devashree Saha, *10 Charts Show the Benefits of U.S. Climate Action*, World Resources Inst. (July 28, 2020), <https://www.wri.org/insights/10-charts-show-economic-benefits-us-climate-action>.

experiencing extreme or severe drought conditions,⁷ fossil fuel-driven climate change is already threatening Oregon's agricultural and other natural resource sectors.

We strongly urge DEQ to update the FIS to reflect the substantial job and economic benefits of reducing emissions under this program, including job loss prevention, avoided future business closures, reduced health care costs, and sustaining Oregon's natural resource economy.

Finally, while the fiscal rightfully mentions the benefits of price reduction for cleaner fuels, it does not acknowledge the fact that clean fuels, like electricity, have less volatility and therefore are less subject to global swings in gas and oil prices. Stronger carbon intensity targets under the Clean Fuels Program will help protect Oregonians from current gas price volatility and future price fluctuations. The more we can move toward electric vehicles, the less we have to worry about the price of oil and gas being determined half a world away. Electrification and cleaner ways of making those fuels exist right here in Oregon. The Clean Fuels Program will help us deploy those technologies at scale, providing cost-savings, job creation, and healthier living environments for people and families across Oregon.

III. Racial Impact Statement

Finally, we applaud DEQ for including a racial equity impact statement for this rulemaking. As noted in DEQ's statement, transitioning to lower-carbon fuels will have immediate public health benefits and alleviate burdens for impacted communities, by reducing harmful co-pollutants that disproportionately affect Black, Indigenous and People of Color communities and low-income Oregonians.⁸ Further, the Clean Fuels Program has the potential to provide significant economic and community benefits through investments in transportation electrification projects across the state.

The Clean Fuels Program has accelerated the transition to electric vehicles by directing utility generated credits towards projects that support electric school bus purchases, public charging infrastructure, electric bike rebates and more. We urge DEQ to consider these benefits in its racial impact statement, and to further advance equitable transportation electrification by encouraging utilities to fund affordable (cost parity to at-home charging) and accessible public charging infrastructure in underserved areas such as low-income, BIPOC and rural communities. Many lower-income Oregonians without access to at-home charging continue to pay for higher electric vehicle charging even though they should be paying the least.

Thank you for your work and for the consideration of our comments. We look forward to continuing to work with you to ensure a healthy future and a stable climate for all Oregonians through the establishment of a strong Clean Fuels Program.

Sincerely,

⁷ U.S. Drought Monitor map for Oregon, July 15, 2021: <https://droughtmonitor.unl.edu/CurrentMap/StateDroughtMonitor.aspx?OR>.

⁸ Oregon Health Authority's recent Climate and Health in Oregon 2020 report underscored that rapidly accelerating climate change is intensifying public health crises in Oregon, hurting communities of color and tribal communities first and worst, and that these health risks will only get worse with continued inaction. <https://www.oregon.gov/oha/PH/HEALTHYENVIRONMENTS/CLIMATECHANGE/Documents/2020/Climate%20and%20Health%20in%20Oregon%202020%20-%20Full%20Report.pdf>

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Climate Solutions

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June 9, 2022
Submitted via email to CFP.2022@deq.state.or.us



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

RE: Oregon Clean Fuels Program Expansion 2022 – Comments on Rulemaking Advisory Committee Meeting #4

Dear Ms. Wind,

The Coalition for Renewable Natural Gas (RNG Coalition)¹ submits these comments in response to the fourth Regulatory Advisory Committee meeting hosted on May 26, 2022, by the Oregon Department of Environmental Quality (DEQ). The meeting was organized in the context of the Clean Fuels Program (CFP) Expansion 2022 Rulemaking.² RNG Coalition applaud DEQ for proposing well-designed CFP rule updates that will strengthen the program's targets and RNG's participation in it. One of the few remaining gaps in the CFP rules is a simple method to allow the recognition of a lower carbon intensity (CI) score for facilities that manufacture liquid fuels using RNG as a feedstock or energy input.

About the RNG Coalition

The RNG Coalition is the trade association for the RNG industry in North America. 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.

Combining Strong CFP Targets, Adoption of Electronic Registry for RNG Transaction, and Full Ex-Post True Ups Will Support Growth of RNG in Oregon

RNG Coalition commends DEQ for proposing more stringent CFP targets, namely targeting carbon intensity reductions of 20% by 2030 and 37% by 2035 below 2015 levels. While California and British Columbia are considering advancing similar enhanced stringency in their Low Carbon Fuel Standards

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

² <https://www.oregon.gov/deq/rulemaking/Pages/cfp2022.aspx>

(LCFS), the targets discussed in the RAC meeting show that Oregon is serious about leading the way with the most ambitious clean fuel program in North America.

We believe that even more ambition could be justified. If DEQ would like to propose further enhancements to targets in the formal Notice of Rulemaking expected later this month, we stand ready to show in our formal comments how RNG could contribute further reductions using the flexibilities discussed below.

In addition, the participation of RNG in the CFP will be made easier and more robust with other helpful changes discussed in the draft rules discussed at the RAC meeting. The adoption of an electronic tracking system like M-RETS will build on the RNG Coalition's efforts to create a North-America-wide RNG registry and minimize the risk of double counting RNG environmental attributes.

Allowing for additional credits to be generated post-third-party verification based on the verified operational carbon intensity incentivizes improved actual environmental performance of all clean fuel facilities but is especially important for RNG. It will make sure the program rewards the true carbon intensity performance of each fuel.

The Rulemaking Should Encourage Broader RNG Use, Including at Biorefineries

The proposed rules do a great job of defining an RNG accounting system based around the “book-and-claim” concept for RNG use in natural gas vehicles. However, more could be done within the CFP to encourage RNG use as a process fuel to lower the CI of liquid biofuel production facilities. For example, DEQ could adjust the rules to expand the use of book-and-claim accounting to allow RNG use in biofuel and alternative jet fuel production facilities serving Oregon to lower their CI.³ Essentially, DEQ should seek to make it more streamlined for RNG to be deployed as an input into making other fuels, as is already allowed—but in a limited way—through California's Renewable Hydrogen Refinery Credit Program and Canada Clean Fuel Standard's proposed limited recognition of gaseous fuel credits regardless of end use.

Conclusion

The proposed CFP rules will improve the program and confirm its role as a keystone climate policy in Oregon. We applaud DEQ for including proposals that will reduce barriers for RNG to participate in the program. RNG Coalition believes there is still room to include methods to allow broader use of RNG, including its use to reduce the CI score of liquid fuels.

RNG Coalition appreciates the opportunity to be part of the RAC meetings and provide comments in this process. We thank DEQ for their continued leadership on this program. We look forward to participating in the final steps of the 2022 Expansion Rulemaking.

³ We recommend coordinating with California on this issue to build this option into the Tier 1 calculators.

Sincerely,

/s/

Sam Wade

Director of State Regulatory Affairs
Coalition for Renewable Natural Gas
1017 L Street #513
Sacramento, CA 95814

From: [Elizabeth Graser-Lindsey](#)
To: [CFP2022 * DEQ](#)
Subject: RAC #4 Public Comment
Date: Tuesday, June 7, 2022 10:29:37 AM

Clean Fuel Program RAC and DEQ:

It is good that the Clean Fuels Program makes quantitative targets so progress is predictable; however, those quantitative targets need to be in line with scientific and Oregon legal standards. **The carbon intensity reduction targets must be expanded** beyond 20% below 2015 levels by 2030 and 37% below 2015 levels by 2035 **to at least 50% by 2035** (which would be the linear decrease needed to get rid of GHG emissions by 2050). Also, **carbon intensity reduction targets must be achieved primarily through electrification** to move our long-lived car fleet to electric to avoid stranded assets and to give the demand signal that PGE and other electric utilities need to plan new renewable power.

Elizabeth Graser-Lindsey
Beavercreek, OR



June 9, 2022

VIA ELECTRONIC FILING

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

Re: Neste Comments on the Oregon CFP Expansion 2022 RAC #4 Meeting on May 26, 2022

Dear Ms. Wind:

Neste appreciates the opportunity to provide these comments on the Clean Fuels Program (CFP) Expansion 2022 Rulemaking presented by DEQ at the Rulemaking Advisory Committee (RAC) Meeting #4 on May 26, 2022. These comments are in addition to the comments submitted by Neste on April 14, 2022 regarding the RAC Meeting #3, and we hope that DEQ considers all of our recommendations as part of this current rulemaking.

Alternative Jet Fuel CI Standard:

Neste understands that the jet benchmark presented in the May 26th, 2022 RAC Meeting was incorrectly set, and that DEQ plans to maintain parity between the diesel and jet benchmarks. We are supportive of parity and look forward to the revised jet benchmark.

As you may know, sustainable aviation fuel (SAF) consumption has grown at a slower rate than renewable diesel primarily due to the aviation industry being preempted by the Commerce Clause from participating in state fuels mandates. As additional SAF production comes online and clean fuels markets expand, renewable diesel and SAF production are often interchangeable, with renewable diesel production most often taking priority due to more incentives for renewable diesel. As a result, our SAF customers require all possible incentives to make the switch to SAF, and having parity between the jet and diesel benchmarks is of the utmost importance to drive SAF consumption in Oregon. We appreciate DEQ's commitment to parity between the diesel and jet benchmarks.

Proposed Targets Through 2035:

Neste continues to strongly support extending and increasing the Clean Fuel Program (CFP) standards to 20% below 2015 levels by 2030 and 37% below 2015 levels by 2035. We believe sufficient credits will be generated to ensure compliance. We recommend that DEQ continue pursuing the technology neutral approach to ensure that the best technologies at any given time drive GHG reductions at the lowest cost possible for Oregon consumers. Neste continues to make substantial investments in low carbon technologies and we look forward to supplying them in Oregon so that it can achieve its climate and racial equity goals.

We appreciate your consideration.

Oscar Garcia
West Coast Regulatory Affairs Manager
Neste US, Inc.



June 10, 2022

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 CFP.2022@deq.state.or.us

RE: Comments on the Oregon Clean Fuels Program Rulemaking draft for May 26, 2022 RAC meeting

North West Handling Systems, Inc. (NWHHS) is a local company in Oregon and Washington. We have been in the business of providing material handling solutions to our customers for the past 50 years. We take great pride in the fact that we are the premier Crown Electric Forklift dealer in the Pacific Northwest. We appreciate this opportunity to provide comments on the recent draft rules released for the May 26 Rulemaking Advisory Committee meeting.

In addition to selling electric forklifts to various businesses in the PNW, we also maintain a fleet of electric forklifts for customers. Some of our customers do not want to make the large upfront financial commitment of owning and maintaining electric forklifts and would rather rent or lease them from us as needed. NWHHS has made significant financial investments, in the tens of millions of dollars, in purchasing and maintaining a fleet of electric forklifts for use by our customers.

We recommend the **fleet owner** as the entity to eligible entity to generate credits in electric forklifts, the fleet owner should have priority for credit generation for electric forklifts. The fleet owner is the one who has made the large upfront investment in acquiring the fleet of electric forklifts. Our customers are very price/cost sensitive and focused on cost reduction. The ability to generate credits helps fleet owners offset some of the high cost of equipment acquisition and further promote the use of electric forklifts.

We recommend the text of OAR 340-250-0330 should read:

(5) Electric Forklifts. For electricity used to power forklifts, the forklift fleet owner may generate credits.

We recommend the text of OAR 340-253-340 should read:

(3) Forklifts. For hydrogen forklifts, the forklift fleet owner is the credit generator eligible to generation credits. Only one entity may generate credits from each piece of equipment.

NWHHS carefully monitors usage in its forklift fleet, tracking hour meter usage to ensure that equipment is routinely serviced according to maintenance intervals, therefore as the fleet owner we

have good visibility into electric forklift usage. Additionally, we have Crown's InfoLink fleet management system to provide robust information on forklift usage and charging.

We are concerned that some out of state "credit aggregators" are submitting comments to DEQ, requesting that the credit generator for electric forklifts be the "fleet operator". These credit aggregators have found a niche market to tap into and profit from the dispersed nature of fleet operators, charging high fees and have a credit marketing, selling process that is not transparent. We sincerely urge DEQ not to give into requests by "credit aggregators" to change who has first priority to generate credits for electric forklifts. The fleet owner is the best entity to generate credits. CFP regulation also allows the fleet owner as the credit generator to pass along or designate credit generation.

We appreciate the opportunity to provide comment and look forward to working with DEQ during the rulemaking process and providing additional comments and feedback in the coming months. Thank you.

Sincerely,



Rupesh Sansgiri, CPA

CFO | North West Handling Systems Inc | 1100 SW 7th St | Renton, WA 98057

Phone: 425-255-0500 | Fax: 425-228-6946

rupeshs@nwhs.com | www.nwhs.com



June 10, 2022

Oregon Department of Environmental Quality
700 NE Multnomah Street, Suite 600
Portland, OR 97232-4100
Attn: Ms. Cory-Ann Wind
CFP.2022@deq.oregon.gov

via email

Subject: RAC #4 Public Comment

Dear Ms. Wind:

The Port of Portland appreciates the opportunity to participate on the Oregon Clean Fuels Program (CFP) Expansion 2022 Rulemaking Committee and provide the following comments on proposed modifications to the existing rules.

The Port of Portland has long had emissions reductions goals and projects, to minimize our impact on the people who live near, travel through, or work at our facilities. The Port is a voluntary participant in the CFP, which has been one of Oregon's most successful policies for addressing the transportation sector's contribution to climate change.

Hard to abate sectors like aviation face the biggest challenge. Aircraft emissions are one of the largest sources of greenhouse gas emissions associated with the Port of Portland's operations. Sustainable aviation fuel (SAF) is the most significant opportunity to reduce those emissions, but faces significant obstacles, such as; competition for feedstocks, competition with renewable diesel, lack of infrastructure, limited supplies, and high prices compared to conventional jet fuel.

Airlines for America have shared their analysis of the draft CFP rules with the Port. While the Port has not conducted an equivalent level of extensive review on the draft rule provisions around SAF, we share their concerns that inequities between SAF and renewable diesel will deter meaningful progress in bringing commercial scale SAF production and use to Oregon.

We are submitting these comments to highlight the importance of bringing CFP provisions on SAF into alignment with renewable diesel. With abundant supplies of woody biomass and municipal solid wastes, Oregon is uniquely positioned to be a leader in SAF development, but to

June 10, 2022

Page 2

launch commercially viable production and use, SAF must be on equal footing with renewable diesel.

Warranted alignment of SAF and renewable diesel carbon intensity values, as highlighted by Airlines for America, is critical to leveling the playing field and promoting SAF development and use in state, which is vital in meeting Oregon's aggressive carbon goals.

Sincerely,

Port of Portland

A handwritten signature in black ink that reads "David J. Breen". The signature is written in a cursive style with a large, stylized initial "D".

David Breen

Senior Manager, Environmental Mixed Media

From: [Greg Alderson](#)
To: [WIND Cory Ann * DEQ](#); [CFP2022 * DEQ](#)
Subject: RAC #4 comment
Date: Monday, June 13, 2022 6:11:49 PM
Attachments: [image001.png](#)

Hi Cory-Ann,

Thanks for the time and discussion last week. Two comments to offer following RAC 4, if you can still accept them:

- For the reasons we talked about and included below, **we recommend removing the definition of REC and the additions in OAR 340-253-0600 (6) that apply to RECs.**

As renewable generation proliferates and addressing climate change become increasingly urgent, public policies advancing clean electricity are evolving toward a stronger focus on greenhouse gas (GHG) reduction rather than accounting for specific types of renewable generation. Oregon's clean electricity law, HB 2021 (2021), uses absolute GHG targets and is indifferent to REC retirements, and Oregon's Climate Protection Program uses GHG targets. For this reason, PGE is concerned by DEQ's addition of a definition of renewable energy certificate (REC) and additional language about tracking "full environmental attributes."

For RPS compliance or for voluntary commitments to funding renewable energy generation, RECs are a useful and critical tool to track compliance and ensure that renewable generation was indeed produced from specific qualifying facilities. The Clean Fuels Program allows a lower carbon intensity to be claimed for purposes of CFP credits if evidence is provided through a REC retirement report to DEQ that a megawatt of renewable electricity was generated within the WECC from a Green-e certified generator brought online after 2015. Therefore we suggest that a REC definition is unnecessary and not be added.

The same principle applies to the proposed additions in the recordkeeping section, OAR 340-253-0600 (6). The proposed language states that "the environmental attributes embodied by that ... renewable energy certificate" must not have been claimed in any other program or jurisdiction "with the exception of ... any reporting required under OAR 340-215 which may be used in the program under OAR 340-271," providing an exception for GHG emissions reported to DEQ. While necessary if the proposed REC language is adopted, the presence of this exception actually underscores PGE's concern that deeper integration of RECs into the CFP may have unhelpful, and unforeseeable, overlap with other compliance programs. We suggest RECs be removed from this language.

- **Ensure that multiple chargers can report through a single charger-only meter:** PGE expects and encourages that nonresidential electric vehicle chargers will increasingly be on a separate meter from the meter serving the premises to facilitate managed charging. We suggest that DEQ ensure that rule changes in the 2022 CFP Rulemaking would allow the electricity dispensed to vehicles to be reported based on a single meter that covers multiple chargers' usage, and *only* covers EV chargers. This would simplify CFP reporting for fleets. The additional requirement in OAR 340-253-640(2)(b) that the reported electricity dispensed by fleet, workplace, or multifamily chargers be "*broken out by the registered and approved EVSE*" may preclude reporting for a group of

chargers on a single meter.

Thank you,



Greg Alderson

Manager | State Environmental Policy & Government Affairs
portlandgeneral.com | @PortlandGeneral |



June 8, 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: Clean Fuel Program Expansion Comments Following RAC meeting #4

Ms. Wind:

Renewable Energy Group, Inc. ("REG") reiterates our support for 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 May 26, 2022.

Compliance Curve

REG strongly supports the proposed compliance curve of a 20% reduction by 2030 and 37% by 2035. This curve represents an important next phase of Oregon's Clean Fuel Program and ensures long term success of the policy.

While we affirm the position taken in the draft rule language, REG continues to see a need to be bold and aggressive in attacking climate change with this program. We reiterate our position of Oregon enacting a 30% reduction by 2030 and a 37% reduction by 2035. Adjusting this timeline will align Oregon with the proposed Clean BC roadmap of a 30% reduction by 2030 and provide the leadership needed in the West Coast. The current availability of renewable fuels in the marketplace should allow this aggressive plan to be successful and the future growth of renewable diesel production will be an additional benefit.

Misc. Proposed Regulation Changes

REG supports sections in the draft rule that clarify the exemption definitions, focus on \$0/credit transactions versus asking for contracts for every credit transfer, and post verification credits for improvements of greater than 1 CI point. Additionally, the new definition of watercraft is supportive of renewable fuel use in marine applications and ultimately will benefit the CFP long term.

Book and Claim

REG appreciates the addition of book and claim language for hydrogen in biofuels production. This new language to the program will foster lower carbon fuels and production inputs, pairing Oregon and California with book and claim opportunities. We hope in a future rulemaking, the



Department of Environmental Quality (“DEQ”) will add renewable methanol and renewable natural gas (“RNG”) for process energy into the book and claim process.

To ensure the ability to use RNG as a feedstock to produce hydrogen used in the renewable diesel production process, we ask that specific language is added to section 340-253-0450(9)(f)(D)(ii) or another section in the proposed regulation. This was addressed in the CA LCFS with the following text "(including hydrogen that is used in the production of a transportation fuel)" This further clarification would give additional certainty to producers seeking to book and claim H₂ for use in producing renewable diesel.

Indirect Land Use Change

REG understands the decision to not make changes to OR-GREET or discuss Indirect Land Use Change (“ILUC”) in this rulemaking. While we respect this decision, we strongly urge DEQ to work with biofuel producers to update canola and soybean ILUC penalties by utilizing the newest science from Argonne Laboratories. This should be addressed to improve the carbon intensities of these fuels and rectify the inconsistency of using Argonne’s model for corn ethanol’s ILUC score and not for soy and canola biodiesel.

REG appreciates the opportunity to participate in the Rule Advisory Committee process and the ability for ongoing dialog about this important topic.

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



June 15, 2022

VIA EMAIL

Cory-Ann Wind
Oregon Department of Environmental Quality
700 NE Multnomah Street, Suite 600
Portland, OR 97232-4100
Submitted electronically via CFP.2022@deq.state.or.us

RE: Renewable Hydrogen Alliance Comments – RAC #4 Public Comment

Dear Cory-Ann:

The Renewable Hydrogen Alliance (RHA) appreciates the opportunity to serve on the Rules Advisory Committee for the Department of Environmental Quality's (DEQ) Clean Fuels Program (CFP) expansion. Please find below our comments on the 2022 Oregon Clean Fuels Expansion Draft Rules presented at the fourth RAC meeting on May 26, 2022.

General Comments

RHA commends DEQ staff's thorough and inclusive work on the RAC process and strongly supports the agency's efforts to expand the Oregon CFP. We also appreciate your willingness to consider and ultimately include extending Advance Credits for hydrogen refueling equipment. This provision will likely result in accelerated penetration of renewable hydrogen into Oregon markets to the benefit of fuel producers, fleet owners, individual vehicle owners and communities clustered around major highway corridors throughout the state historically overburdened by pollution from transportation emissions.

As the Northwest's largest renewable hydrogen trade association representing companies, advocates, public sector entities and others who are interested in or involved in promoting zero and low carbon emission solutions across the hydrogen value chain, we welcome and are encouraged by the steps Oregon is taking to build the renewable hydrogen clean energy and clean fuels economy. The state joins Washington and California in expanding the options available to fuel producers and end users to create a clean fuels ecosystem that will significantly reduce emissions from the West coast's largest contributing sector.

Specific Comments:

“Renewable Hydrogen” Definition: RHA supports the definition of renewable hydrogen in OAR 340-253-0040, however, we would like to see the reference to energy sources for electrolysis (107(1)) be expanded to include geothermal, tidal, wave, and hydropower in addition to solar and wind. This would bring this definition into alignment with the definition in SB 333 (Chapter 41, Oregon Laws 2021): *Sec. 1(1) As used in this section, “renewable hydrogen” means hydrogen gas derived from energy sources that do not emit greenhouse gases.*

Expanded GHG Emissions Reduction Targets and Carbon Intensities: RHA supports DEQ’s ambitious new targets for reducing emissions from the state’s transportation and fuels sectors and we are encouraged by the expanded and diverse credit generation pool of which renewable hydrogen is a pathway. However, we want to stress that these targets will not be met without the wide adoption and investment in fuel cell vehicles of *all* classes, not just medium and heavy duty vehicles. It will be key to incentivize the production and distribution of renewable hydrogen if the decarbonization goals of the CFP are to be met. We are concerned about the risk of dampening demand for renewable hydrogen by some of the values we see in OR 340-253-8010 Table 4 Oregon Carbon Intensity Lookup Table that seem to be not equivalent to values in Washington for very similar hydrogen production methods. For instance, in Washington’s draft CI Lookup Table¹, compressed hydrogen produced from steam methane reformation of biomethane from North American landfills has a CI that of 92.7, yet in Oregon that same hydrogen produced the same way with the same source has a value of 116.8. In addition, the CI for hydrogen produced with solar or wind energy in Washington is half that of what it is in Oregon and it’s not clear what would explain such differences.

The CFP program should not disincentivize the production of renewable hydrogen in the state as an important option and pathway, particularly for medium and heavy duty transport, but also for light duty vehicles where extreme temperatures, rural locations and other conditions do not make battery electric vehicles a feasible or optimal choice. The risk is that the potential for the CFP to accelerate economies of scale for both production of renewable hydrogen and build out of large-scale hydrogen storage facilities (including pipelines) needed for fuel supply and to reduce the need for transport of the fuel over long distances won’t be realized. As a result, GHG and other pollutant emission reductions desperately needed to mitigate climate change impacts on the region won’t be achieved. Low cost storage of hydrogen that results from economies of scale will also provide grid benefits by enabling long term seasonal storage for the anticipated excess of electricity produced from variable renewable resources, thereby preserving the value of these electricity generation resources and ensuring grid reliability necessary to meet the CFP’s transportation electrification goals.

It is important to note that Argonne National Lab has updated the GREET model for hydrogen production and is planning to update the model further to incorporate emerging low carbon hydrogen production technologies. It is our hope that DEQ will update the CI Lookup Table to incorporate those updates.

¹ <https://ecology.wa.gov/DOE/files/7a/7a9a57a7-a8ed-42b7-ab88-d5acb8ac2db5.pdf>

Thank you for the continued opportunity to provide feedback on the CFP expansion rulemaking process and topics. RHA looks forward to continuing to work with DEQ and key stakeholders through this rulemaking process.

Please do not hesitate to reach out to me if you have any questions or need additional information.

Sincerely,

A handwritten signature in blue ink, appearing to read "Michelle Detwiler", is placed on a light blue rectangular background.

Michelle Detwiler
Executive Director

From: [ronald bunch](#)
To: [CFP2022 * DEQ](#)
Subject: RAC #4 Public Comment
Date: Thursday, June 9, 2022 1:59:00 PM

Subject: RE: Clean Fuels Program Expansion - RAC Meeting #4 Public Comment
Body:

DEQ Clean Fuels Program Staff,

Thank you for the opportunity to provide comments on DEQ's proposed Clean Fuels Program rules and draft fiscal impact statement. I am writing to express strong support for maximizing climate, public health, community, and local economic benefits by adopting an ambitious Clean Fuels Program (CFP) expansion. In addition, I urge you to amend the draft fiscal impact statement (FIS) to more accurately capture benefits of the Clean Fuels Program.

The Clean Fuels Program is one of Oregon's most important and cost-effective tools to reduce climate pollution from the largest source in Oregon: burning diesel and gasoline for transportation. While we applaud DEQ's proposal to extend and increase the CFP's carbon intensity reduction targets to 20% below 2015 levels by 2030 and 37% below 2015 levels by 2035, we see this as the minimum level of ambition that is feasible and which DEQ should strive for.

The latest U.N. Intergovernmental Panel on Climate Change (IPCC) report stated that current policies to limit climate emissions will not be sufficient to avoid catastrophic and irreversible climate impacts. While Oregon has made meaningful progress to address the fossil fuel pollution driving the climate crisis, Oregon is still not on track to achieve our climate goals. Stronger clean fuels targets will help us close this critical gap.

At minimum, DEQ should expand the carbon intensity reduction targets to **go beyond the current proposed 20% below 2015 levels by 2030 and 37% below 2015 levels by 2035**. Strong carbon intensity reduction targets will help move the needle on climate pollution, while improving public health and economic outcomes across Oregon. Cleaner fuels also help increase our energy security and protect Oregonians against harmful oil and gas price fluctuations at the pump: the more we move toward electric vehicles and cleaner fuels made closer to home, the less we have to worry about the price of oil and gas being determined half a world away.

Likewise, I urge DEQ to maximize the clean air, climate, and health benefits of the program, by achieving these new targets through electrification as much as possible, and to prioritize equitable economic outcomes, by encouraging credit-generating utilities to fund affordable and accessible public charging infrastructure in underserved areas such as low-income, BIPOC and rural communities.

In addition, the draft fiscal impact statement (FIS) needs to be amended to more accurately capture the extensive health and jobs benefits of the Clean Fuels Program. The economic benefits identified are extremely *conservative* estimates, whereas the costs of the program are overestimates. For instance, while the program rewards reductions in lifecycle emissions, the FIS doesn't incorporate reductions in co-pollutants beyond the tailpipe. It also doesn't quantify other economic benefits, including job creation, investments, new tax base, waste

reduction, and so forth.

In addition, while we appreciate the inclusion of \$916 million in benefits when using the federal estimate of the social cost of carbon, this is an extremely conservative estimate, especially when you consider there have already been hundreds of lives lost, thousands of homes and buildings burned, agricultural production losses, lost business days from climate impacts in Oregon in just the last two years alone.

Thank you for your consideration,
Ron bunch

Southern Oregon Climate Action Now

SOCAN

Confronting Climate Change

<https://socan.eco>

Alan R.P. Journet Ph.D.

Cofacilitator

Southern Oregon Climate Action Now

7113 Griffin Lane

Jacksonville

OR 97530-9342

June 8th 2022

CFP.2022@deq.oregon.gov

Reference: "RAC #4 Public Comment"

Colleagues:

I write as cofacilitator of Southern Oregon Climate Action Now, an organization of some 2,000 rural Southern Oregonians who are concerned about the climate crisis and serve to fulfill our mission of promoting awareness and understanding of the science of climate change and its consequences and stimulating individual and collective action to address it through a lens of climate justice.

As a result of Governor Brown's Executive Order, Oregon state agencies are developing programs that will reduce greenhouse gas emissions throughout the state generating a substantial downward trajectory with meaningful goals. A critical program among those under consideration is the Clean Fuels Program.

In terms of the Clean Fuels Program, I remind the DEQ that the transportation sector of our economy is the largest emitter of regulated greenhouse gases in the state. It is, therefore, the sector that offers the greatest opportunity to fulfill Governor Brown's charge in EO 20-04 to reduce emissions substantially. If Oregon is to accept its responsibility for reducing statewide emissions consistent with those recommended by the Intergovernmental Panel on Climate Change (IPCC), we must demand that transportation achieve increased reductions. It is worth recalling that transportation is one sector that declined to comply with HB3543 in 2007 by reducing emissions voluntarily. Thus, regulations were necessarily imposed initially in 2009 and then implemented in 2016 to address the carbon intensity of transportation fuels and demand its reduction.

While the CFP has been effective in reducing transportation emissions, progress has not been sufficient to meet the recommendations of the IPCC as modified over the years because the need for increasingly rigorous reductions has become more urgent. Indeed, the United Nations Environment Programme [Stockholm + 50](#) conference on climate that we must : "phase out of fossil fuels while providing targeted support to the poorest and most vulnerable in line with

national circumstances and recognizing the need for financial and technical support towards a just transition.” The urgency of the crisis demands that every jurisdiction wishing to preserve some semblance of life across the planet as we know it should take whatever steps it can to require substantial emissions reductions. In Oregon, a Clean Fuels Program that imposes reductions beyond the currently proposed 20% below 2015 levels by 2030 and 37% below 2015 levels by 2035 would represent a critical contribution to our statewide effort.

In addition to addressing the climate crisis, meaningful greenhouse gas emissions reductions will provide valuable health benefits, especially to the low-income and vulnerable communities that live adjacent to fossil fuel processing facilities and our major highways.

In closing, I note that the [Swiss Re study](#) of the economic impact of unfettered climate change, adjusted to the state level, conservatively estimates that the cost to Oregon will annually reach \$48 billion. Despite the protestations of those unprincipled actors who insist that their profit margin must not be compromised by efforts to preserve, for our children, life on the planet as we know it, it is economically far less expensive to address the climate crisis than leave it unaddressed.

We urge that DEW deliver rigorous strengthening of the Clean Fuels Program with a focus on electrification rather than the incorporation of biofuels which are questionable in terms of their lifecycle emissions and which also can, in some cases, compromise the availability of food staples and food items. If Oregon wishes to remain a national and international leader in environmental and climate protection, we should do our part!

Respectfully submitted

A handwritten signature in black ink, reading "Alan R.P. Journet". The signature is written in a cursive, flowing style.

Alan R.P. Journet Ph.D.
Cofacilitator
Southern Oregon Climate Action Now



Jim Verburg
Director, Fuels

June 10, 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 DEQ Clean Fuels RAC Meeting #4

Dear Cory Ann:

Western States Petroleum Association (WSPA) appreciates the opportunity to provide the Oregon Department of Environmental Quality (DEQ) with our feedback from the Clean Fuels Program (CFP) Rulemaking Advisory Committee (RAC) Meeting #4, held on May 26, 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. RAC Meeting #4 consist of two primary presentations: Overview of Draft Rules and Fiscal Impact Statement (FIS). WSPA comments on both presentations as well as the revised draft regulation language (posted by DEQ for RAC Meeting #4) are provided below.

Overview of Draft Rules

Expansion of Targets – Proposed Targets (Slide 18)

WSPA continues to be concerned with the proposed CI target reduction target of 37% by 2035. As noted in our previous comment letter, this is 12% more stringent than the Governor Executive Order of 25% reduction by 2035 and would represent a significant CI reduction of 17% over 5 years (i.e., concerns regarding projected EV sales and availability of biofuels).¹ WSPA believes that a 37% target reduction by 2035 will be very challenging and could potentially result in volatility in the LCFS program and transportation energy sector. WSPA suggests that DEQ set the 2035 CI reduction target in line with the Governor's Executive Order (EO) 20-04 target of 25% reduction and utilize the proposed 2029 program review as an opportunity to consider more stringent targets through 2035.

Expansion of Targets – Program Review in 2029 (Slide 18)

WSPA appreciates that DEQ will conduct a program review in 2029. However, WSPA believes that DEQ should conduct program reviews on a regular basis, such as on an annual basis, starting in 2023. A program review in 2029 will not provide enough time to regulated entities and to the CFP credit market for a smooth transition if adjustments to the targets for the years 2030-2035 are needed in 2029. A regular program review would provide regulated entities assurance that the program continues to be feasible and to Oregonian residents that costs will be reasonable.

Additions and Updates to Existing Provisions (Slide 21)

WSPA requests that DEQ include in § 340-253-0040 the definition of renewable hydrogen an option

¹ Western States Petroleum Association. "WSPA Comments regarding DEQ Clean Fuels RAC Meeting #3", April 15, 2022.

for renewable hydrogen produced from renewable fuel gas (including methane, ethane, propane, butanes, and pentanes) by catalytic cracking/reforming (such as from offgas produced by a renewable diesel plant).

Additional Credits (Slide 25)

WSPA supports DEQ's proposal in § 340-253-1020 to adjust credits of a fuel pathway holder if the verified CI of the fuel pathway is 1 gCO₂e/MJ lower than the operational CI.

Fiscal Impact Statement

Direct Cost of Complying with the Proposed Targets (Slide 46)

Assuming a low inflation rate of 2% per year, the maximum CFP credit price in 2035 would be \$298, so the costs of the program could be as high as \$1.6 billion in 2035. If more deficits than 5.4 million are generated in 2035, the maximum cost would be even higher, as there is no guarantee that the number of deficits will be limited to 5.4 million, in particular if the transition to EVs is not growing as fast as in the illustrative compliance scenario. WSPA requests that the FIS provide an assessment of potential program costs for circumstances beyond the low inflation rate (best case) scenario.

Indirect Costs or Cost Savings to Fuel Consumers (Slides 48-49)

As noted above, WSPA has significant concerns regarding the viability of the 37% CI target for 2035. This aspirational CI target (based solely on illustrative compliance scenario modeling) has not been subject to thorough study of impacts to not only the electricity grid, power generation capability (and resource mix), and types of vehicles, (in particular heavy duty vehicles), but the impacts on Oregon residents have also not been factored in (as acknowledged by DEQ staff during the RAC Meeting #4). Specifically, not considered were the possible increase costs to Oregon residents for transportation and energy - from the purchase of EVs to the cost of fuels and/or electricity (for home and vehicle). WSPA requests that these impacts on Oregon residents be included in the FIS.

FEIS – Impact to Large and Small Businesses (Slides 55-56)

WSPA suggests that DEQ conducts a study to evaluate how many fueling stations in Oregon will have to close down as a result of the CFP (and the Climate Protection Program), as sales of liquid fuel are expected to go down and evaluate the economic impact of business closures (and new businesses opening) as well as lower state tax revenue reduction due to reduced volume of liquid fuel sales. DEQ should evaluate alternatives if the state of Oregon will need to adjust its spending downward due to lower fuel tax revenues, or if new taxes should be created, such as a tax on electricity to charge electric vehicles to make up for the loss of state revenue.

Revised Draft Regulations (as of May 26, 2022)

§ 340-253-004030(107) – Definitions – Renewable Hydrogen

WSPA suggests that the definition of "Renewable Hydrogen" be expanded to allow renewable fuel gases. In doing so, the CFP would then recognize in the regulatory language a variety of options for renewable feeds to a hydrogen unit. Beyond simply a narrow definition of biomethane, renewable hydrocarbons such as biogenic ethane, biogenic propane, biogenic butane, biogenic pentanes, or a mixture of thereof processed by a steam methane reformer will generate renewable hydrogen.

An example of such an application would be the processing of the light hydrocarbons (offgas) from a renewable diesel plant through a steam methane reformer to produce renewable hydrogen. Such light hydrocarbons could contain biogenic propane and other biogenic hydrocarbons.

§ 340-253-0630(1)(c) – Quarterly Reports

WSPA recommends that the date of December 31 under paragraph (1)(c) be changed to a date in January, for example January 15, to provide time for reporting during the end of year holiday period.

§ 340-253-0630(2)(e) – Quarterly Reports

WSPA opposes the proposed language in paragraph (2)(e) that would allow DEQ to create new transaction types. New transaction types should only be created during a rulemaking to: (1) allow a thorough review before the new transaction type is created, (2) provide all parties time to update their contracts, and (3) allow for computer systems, including OFRS, to be thoroughly tested.

§ 340-253-0640(6)(a) – Specific Requirement for Reporting Under This Division

This section states: *“For reporting liquid fuels that are being transferred in and out of a commingled storage tank or that are commingled in production or in transport, the reporting entity may mass balance transfers out of that commingled tank or system by fuel pathway code based on the gallons input into that tank or system in the current or prior quarter. Liquid gallons reported under a specific fuel pathway code may only be reported as transferred out of commingled storage if they were put into a tank two or more quarters prior if the reporting entity demonstrates to DEQ that the tank has not fully turned over by the quarter it is reporting the volume being transferred out.”* As written, the regulatory language does not allow for fuel suppliers to meet this reporting requirement under current supply chain logistics and terminal operations (i.e., there is no apparent mechanism to notify DEQ if a tank has been fully turned over). In addition, DEQ would have no ability to verify reported information. WSPA urges DEQ consider simplifying the regulatory language in this section. Considering that CFP credits do not expire, it appears unnecessary to treat fuel that was created earlier in the year differently from fuel created more recently.

Note that this section is labeled as “§ 340-253-0640(6)(A)” on page 110 for the DEQ’s “Draft Rules – Edits Highlighted” document². For consistency with the section formatting throughout the regulation, the section should be labeled as “§ 340-253-0640(6)(a)”.

§ 340-253-8010 – Oregon Clean Fuel Standard (Tables 1-3)

WSPA suggests that DEQ consider revising the post-2030 CI targets reset to be consistent with Governor’s Executive Order (EO) 20-04 with a 2035 CI reduction target of no more stringent than a 25% reduction.

§ 340-253-8010 – Oregon Clean Fuel Standard for Alternative Jet Fuel (Table 3)

Currently, the jet CI target for 2025 is 88.87 gCO₂e/MJ. However, in the redlines for revised Table 3, DEQ has deleted the 2025 CI target for jet (88.87 value has been struck out in tracked changes) with no replacement number provided. WSPA requests that DEQ provide the proposed 2025 jet CI value for stakeholder review.

² <https://www.oregon.gov/deq/rulemaking/Documents/cfp2022m4Rules.pdf>

Ms. Cory-Ann Wind
June 10, 2022
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WSPA appreciates the opportunity to provide comments on this important proposed regulation. If you have any questions regarding this submittal, please contact me.

Sincerely,



James Verburg
Director, Fuels

