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Oregon Department of Environment Quality
VIA Email Transmission
CFP2022@deq.state.or.us

Re: Oregon Clean Fuels Program Expansion 2022 RAC #3 Meeting March. 31, 2022

Dear Department of Environmental Quality Staff:

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

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

We wish to comment on the workshop topics as follows:

Target Setting / Opportunities for Additional Credit Generation

DEQ proposes extending and increasing the Clean Fuels Standards to 20% below 2015 levels by 2030 and 37% below 2015 levels by 2035¹. This is largely underpinned by the recommendations from the ICF's report entitled "Opportunities for Additional Credit Generation Draft Final Report, March 2022"² ("ICF 2022 Report"), which sets forth an option to achieve more ambitious targets by exploring a more diverse pool of credit generating options to expand on ICF's July 2021 report entitled "Long Term Illustrative Compliance Scenario."³

¹ <https://www.oregon.gov/deq/rulemaking/Documents/cfp2022m3Targets.pdf>

² <https://www.oregon.gov/deq/rulemaking/Documents/cfp2022m3CreditGeneration.pdf>

³ <https://www.oregon.gov/deq/ghgp/Documents/cfplluCompScenD.pdf>

bp applauds DEQ for planning to take a more ambitious and expansive approach to target setting. In doing so, it provides an opportunity for a broader range of technologies and renewable fuels to play a role within the program. We have consistently stated both during the 3rd RAC meeting, and in our February 2, 2022, comment letter relating to the 2nd RAC meeting⁴, that having robust mechanisms in place for fuels forecasting and cost containment provides assurance for program resilience if the future does not turn out as predicted. Additionally, in that same comment letter we wrote:

“bp supports DEQ in ambitious target setting but we also urge DEQ to be ambitious in broadening the scope and diversity of credit generating opportunities that can be brought into play to deliver those targets.”

Even with an expanded and diversified credit generation pool, electrification will be key to meeting reduction targets. Electric vehicles (“EVs”) must be widely adopted, and investment must occur in EV charging infrastructure. The multiple policies supporting EV adoption have elements both within and outside of DEQ’s influence, so it is prudent of DEQ to propose the additional assurance of a program review for the Oregon Environmental Quality Commission in 2029. “The focus of the program review will be to provide the EQC with 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.”⁵

Before commenting specifically on the content of the ICF 2022 Report, bp urges DEQ to consider how it plans to signal to program stakeholders a timetable for when additional credit generating opportunities would be adopted. Some options being considered have long lead times and require considerable investment that can only take place with the benefit of regulatory certainty. Other options being considered may be easier to implement but may benefit from alignment with California’s Low Carbon Fuel Standard (“LCFS”) program to streamline pathway approval between jurisdictions. We would recommend an open and transparent process that provides a view on the different program elements that are to be adopted within the cadence of future rulemaking.

Specifically, as to the ICF 2022 Report:

Upstream Carbon Intensity (“CI”) Improvement for Ethanol

With respect to agronomic practices, bp supports DEQ adopting best accepted science. We would argue that the scope of cover crops goes beyond CI carbon Intensity improvements for ethanol and likely will play a significant role in bio-distillate feedstock sourcing. As an example, the cover crop Carinata is recognized under the International Civil Aviation Organizations’ Carbon Offsetting and Reduction Scheme for International Aviation (“CORSIA”) program with significant Induced Land Use Change benefit for eligible fuels produced with the Hydroprocessed Esters and Fatty Acids (“HEFA”) Fuel Conversion Process.⁶

⁴ <https://www.oregon.gov/deq/rulemaking/Documents/cfp2022m2Com.pdf>

⁵ <https://www.oregon.gov/deq/rulemaking/Documents/cfp2022m3Targets.pdf>

⁶ <https://www.icao.int/environmental-protection/CORSIA/Documents/ICAO%20document%2006%20-%20Default%20Life%20Cycle%20Emissions%20-%20November%202021.pdf>

Refinery Investment Projects / Refinery Renewable Hydrogen Projects

Having all west coast U.S. jurisdictions offering this program design feature would help mitigate the sales volume pro-rating limitation from refinery production that impacts credit generation within the existing California LCFS program. This is particularly acute for west coast refineries located outside of California where the production / sales of gasoline and diesel are more likely to be distributed across multiple jurisdictions. California already offers these program design features. Washington is expected to also offer these program design features in its CFP as a statutory requirement within HB 1091.⁷

DEQ could also make a significant contribution to the price signal for project-based crediting opportunities by including these design features within the CFP. As part of a suite of project based crediting options, Refinery Renewable Hydrogen Projects offer the prospect of a relatively simpler rulemaking addition to administrate, if prioritization for inclusion is being made based on program resources.

Opportunities not assessed within the ICF 2022 Report

Further to our comment letter⁸ relating to the DEQ Pathways Workshop of February 17th, 2022, we believe that there are untapped opportunities to utilize Renewable Natural Gas (“RNG”) through indirect accounting methodologies for both process energy and renewable hydrogen as it relates to renewable fuel production and would encourage DEQ to explore this area in future rulemaking.

Additional Proposals Under Consideration

bp supports DEQ’s broad range of proposals and would refer to the specific comments made in our letter⁹ relating to DEQ’s Reporting Workshop that was held on January 20th, 2022. We welcome the fact that much of the feedback in our comments letter was reflected in the additional proposals that are now under consideration.

DEQ requested stakeholder feedback to support prioritization for current rulemaking, with the likelihood being that there would be insufficient bandwidth to implement all these proposals in one go. There will be a number of additional proposals that should be relatively easy to insert by way of language changes, but outside of those it would be bp’s preference for DEQ to initial focus on the additional proposals that have credit generation implications. As such bp would like to see all of the following from the DEQ document list¹⁰ prioritized in the current rule making; -

4. Develop calculator for biogas-to-electricity pathway (OAR 340-253-0400)
5. Define renewable hydrogen for pathways (OAR 340-253-0040)

⁷ <https://lawfilesexternal.wa.gov/biennium/2021-22/Pdf/Bills/Session%20Laws/House/1091-S3.SL.pdf?q=20220405111837>

⁸ <https://www.oregon.gov/deq/rulemaking/Documents/cfp2022pwComments.pdf>

⁹ <https://www.oregon.gov/deq/rulemaking/Documents/cfp2022rwComments.pdf>

¹⁰ <https://www.oregon.gov/deq/rulemaking/Documents/cfp2022m3Considerations.pdf>

16. Post-verification credit generation adjustment

17. Add hydrogen to the advance crediting provisions (OAR 340-253-1100)

Thank you for the opportunity to comment on these important topics and we look forward to working with DEQ and key stakeholders through this rulemaking process. In the meantime do not hesitate to reach out to me at mark.bunch@bp.com or 708-228-6093 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 "B" and a trailing flourish.

Mark Bunch