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Washington State Department of Ecology
Submitted via download to [Clean Fuels Program Rule (commentinput.com)]

Re: Comments on the proposed Clean Fuels Program, WAC 173-424, from the October 6, 2021 stakeholder meeting

Dear Department of Ecology staff:

On behalf of bp America Inc. ("bp"), thank you for the opportunity to participate in the Washington Department of Ecology's ("DOE") rulemaking process on the Clean Fuels Program ("CFP").

bp's ambition is to become a net zero company by 2050 or sooner, and to help the world reach net zero. bp also supports Washington's efforts to achieve net zero by 2050. Consistent with bp's ambition, we are advocating for policies addressing greenhouse gas ("GHG") emissions around the world.

bp applauds the State of Washington for enacting the Climate Commitment Act ("CCA"), S.B. 5126, and the CFP, H.B. 1091. bp has advocated for legislative efforts to address GHG emissions on an economy-wide basis, which we believe will help Washington achieve its GHG emissions reduction goals while enabling Washington industries, including bp, to continue investing in innovation and jobs in the state. The CCA and the CFP are two parts of a new, comprehensive "360-degree" approach to reduce Washington's GHG emissions to net zero by 2050.

Under the CCA, large emitters, including refineries, will need to progressively ratchet down their GHG emissions in compliance with the cap and invest regime. Downstream, the CFP will ensure that consumers fill up their vehicle tanks with increasingly lower carbon intensity fuels (or use electric vehicles).

Meanwhile, the Clean Energy Transformation Act will drive electricity generation to lower-carbon and renewable sources. At the same time, Washington state will continue to maintain its GHG reporting protocols and inventories. Finally, the Greenhouse Gas for Projects

Assessment ("GAP") rule will ensure that GHG emissions and climate change impacts are properly analyzed on a project-specific basis through the Washington State Environmental Protection Act ("SEPA"), providing a transparent source of information to communities, project proponents, and decision-makers.

<u>Comments related to the October 6th presentation</u>

Our comments on the CFP are given in the context of DOE's October 6th presentation and are in response to the questions DOE posed.

Carbon Intensity ("CI") Standard – Issues (slide 40, 41)

Of the options DOE is considering, bp urges DOE to adopt Option 1 (0.5 CI reduction in 2023. Compliance obligation in 2024). This option allows both DOE and regulated entities the time necessary to implement and road-test program administrative tools and requirements while also protecting the program integrity from a cumulative GHG reduction perspective.

Transportation Fuels Subject to Regulation (slide 42)
We suggest it may be a good underlining principle to default to harmonize with Oregon's Clean Fuels Program, due to the shared state border and similarity in fuels markets, unless there is a good reason to do otherwise.

Exemptions – Fuels and Uses (slide 43)

bp would recommend DOE adopt the 360,000 gallons/year threshold, as Washington has more in common with Oregon in terms of fuel supplier dynamics than it does with California.

Credit Generating Activities –Section 6 (Slide 44)

In the listening session, DOE asked if the program needs the listed credit generation activities in the initial rulemaking.

bp believes the items specifically listed in slide 44 do not necessarily have to be included in the rulemaking for January 2023 implementation, but key stakeholders would benefit from having a clear timeline for when they would be considered for inclusion (bp is assuming this will be done on the two-year cycle as part of the process under Section 17, referenced in slide 29).

Credit Generators – Refueling Infrastructure (slide 45,46)

Providing credits – both utilization and capacity credits – to incentivize infrastructure creation can help accelerate early adoption of both hydrogen and electric vehicle solutions. In the design of such incentives, we see several potential priorities, including:

- Ensuring an appropriate level of risk sharing with developers (i.e., capacity incentives should not be the only value supporting infrastructure investment).
- Capacity incentives should be withdrawn as utilization increases (i.e., no double counting of capacity and performance incentives); and

- Fair and equitable rules that allow developers to reach final investment decisions within a stable framework with clear requirements.

Additional Comments

In the spirit of the webinar session request, bp also wishes to provide the following comments on program design components for consideration that were outside of the specific feedback DOE sought:

Book and claim accounting

If DOE is planning to adopt a book and claim accounting methodology (as used within the California and Oregon Low Carbon Fuel Standard programs) bp would encourage DOE to consider a broader range of fungible fuel eligibility to what has already been established for Renewable Electricity and Renewable Natural Gas (RNG) applications. GHG and cost efficiency for supply chain logistics, particularly for co-processed renewable fuels and sustainable aviation fuels ("SAF"), would be a major deliverable from a broader approach to book and claim adoption.

Alternative Credit Generation Opportunities

- Project based refinery crediting – With five refineries in Washington, this is an important lever for DOE. From a timing perspective, there is an opportunity to work in concert with the CCA rulemaking to support fossil fuel carbon reduction projects and with the concurrent Oregon CFP expansion rulemaking. Early action to provide regulatory certainty sends a strong signal to regulated entities that wish to invest in Washington state projects that have long lead times. Coordinating project-based crediting regulation with Oregon and California will amplify that signal and make it very impactful. As such, bp would strongly recommend that this program feature be included in the initial rulemaking.

- Sustainable Aviation Fuel / Alternative Jet Fuel – There was no specific mention of DOE's intentions for opt-in credit generation from renewable fuels into the aviation sector. bp's understanding is that it was the legislative intent to have this design feature included within the program. Having this feature would harmonize Washington with both the California and Oregon LCFS programs and incentivize investment in SAF in the region.

- Options to accelerate decarbonization from exempt sectors – With off-road special fuels for log transport, agriculture, mining, and timber harvesting operations being exempt through January 1, 2028, allowing crediting for clean fuels used in this sector without incurring an obligation for the fossil component would encourage real carbon reduction early in the program without cost penalty to the end user.

- Alternative credits may be capped – This was referenced in DOE's presentation. In setting caps, there will be some precedent from the California LCFS program. bp would recommend that any caps consider the return on investment needed to make projects feasible and that caps are not set arbitrarily.

Miscellaneous

bp would ask for clarification on fuels exported from Washington (slide 22). Does "export" also mean fuels destined for use on tribal lands within the state of Washington? It would be useful for this to be clarified in the rule language.

We hope these comments and questions are helpful in your deliberations. Please feel free to contact me at mark.bunch@bp.com or 708 228-6093 if you would like to discuss further.

Sincerely,

Mark Bunch
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