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Oregon Department of Environment Quality
VIA Email Transmission
GHGCR2021@DEQ.STATE.OR.US

Re: Notice of Proposed Rulemaking Aug. 5, 2021 - Greenhouse Gas Emissions Program 2021 Rulemaking; Climate Protection Program (CPP)

Dear Department of Environmental Quality Staff:

On behalf of bp America ("bp"), thank you for the opportunity to participate in the Oregon Department of Environmental Quality's ("DEQ") rulemaking process and to provide comment on the Notice of Proposed Rulemaking of August 5th, 2021.

bp's ambition is to become a net zero company by 2050 or sooner, and to help the world reach net zero. Consistent with bp's ambition, we are actively advocating for well-designed policy addressing greenhouse gas ("GHG") emissions in jurisdictions around the world. Our comments are given in that context and are provided below under the relevant proposed regulation headings.

340-271-0420 - Distribution of Compliance Instruments to Covered Fuel Suppliers

In sub-section 3(b)(B)(iii), the definition of "Covered fuel supplier biofuel emissions" fails to recognize book and claim accounting for biofuels consumed within the state. As this is a methodology already employed for certain fuels under the Clean Fuels program, we assume this is not the rule drafters' intent. We recommend rewording to remove any ambiguity for how book and claim accounting methodology is recognized within the program.

340-271-0440 - Compliance Periods

Given the short period between final rule adoption and program implementation, we recommend that DEQ consider ways to reduce the initial implementation burden, especially in the first year. One possible approach could be waiving the *annual* compliance demonstration during the first three-year compliance period – thereby keeping the overall compliance goals for the compliance period but allowing entities the entire length of the period to comply instead of an annual review that will be required in subsequent compliance periods. This gives regulated parties time during the first compliance period to implement the rule in their operations before having to certify compliance.

340-271-0510 - Notification to DEQ of Compliance Instrument Trades

DEQ should ensure adequate protections are in place for the protection of commercially sensitive business information regulated entities provide to DEQ according to OAR 340-214-0130. Specifically, bp recommends that DEQ revise the rule to categorically exempt from public disclosure fuel suppliers' fuel volume data (and other commercially sensitive information) under OAR 340-214-0130(3)(b) through (d). Regulated entities then would not need to object to disclosure of such data on a case-by-case basis.

340-271-0950 - Community Climate Investment ("CCI") Projects

With respect to subsection (a), bp recommends revising the rule to explicitly include tribal lands. This could be done either in this section or added to the general definition section.

In subsection (b), the term "reasonably likely," when used in connection with a CCI and its emissions reduction delivery of one million tons ("MT") of CO₂e, falls short of the expected rigor not only for this program, but also for any recognized carbon programs and their attendant use of alternative compliance instruments. bp, and potentially other companies, would likely disqualify CCIs in its internal GHG accounting due to this ambiguity. As this currently stands, we see this as extremely problematic if CCIs are to be a credible alternative compliance option to meet GHG reduction targets.

If the CCI language in the rule is not revised, bp would recommend revising the definition of a CCI credit in 340-271-0020 (6), where it states that a CCI can be used in lieu of a compliance instrument. bp recommends adding language that indicates that a CCI may not always be equivalent to an emission of one MT CO₂e.

340-271-9000 - Tables

bp previously has commented on the appropriateness of applicability thresholds to fuel suppliers. This rule should seek the appropriate balance between added complexity for small businesses, the potential for GHG leakage and ensuring a level playing field among regulated entities. DEQ has taken a compromise approach with respect to the values presented in Table 1. Though bp would have preferred a lower threshold from the beginning, we understand the compromise DEQ put forward.

Please do not hesitate to reach out to me at thomas.wolf@bp.com or 360-483-7438 if you have any questions or need additional context.

Sincerely,

A handwritten signature in black ink, appearing to read "Tom Wolf", with a stylized, cursive script.

Tom Wolf
bp America