

October 21, 2015

Cory Ann Wind
Oregon Department of Environmental Quality
811 SW 6th Ave.
Portland, OR 97204-1390

RE: Comments of the Renewable Fuels Association (RFA) in Response to Proposed Amendments to Chapter 340 of the Oregon Administrative Rules (“Oregon Clean Fuels Program”)

Dear Ms. Wind,

The Renewable Fuels Association (RFA) appreciates the opportunity to provide comments in response to the Department of Environmental Quality’s (DEQ) proposed rule for amendments to the Oregon Clean Fuels Program (CFP). RFA is a national trade association representing the domestic ethanol industry. Our membership includes ethanol producers and marketers, vendors to the ethanol industry, agricultural organizations, and other groups dedicated to the continued expansion and promotion of fuel ethanol.

RFA has generally supported science-based public policies and regulations designed to reduce the carbon intensity (CI) of our transportation fuels. Specifically, RFA has enthusiastically supported low carbon fuel programs that use fair, consistent, and scientifically robust methods for evaluating the lifecycle CI of all transportation fuel options. Therefore, RFA was surprised and highly disappointed to learn that the recently proposed rule includes the addition of subjective penalty factors for hypothetical indirect land use changes (ILUC) for select biofuels, but no indirect effect penalty factors for any other fuel types. Inclusion of highly uncertain and prescriptive ILUC factors creates an asymmetrical and discriminatory framework for the CFP. Moreover, the ILUC factors DEQ is proposing to incorporate are entirely arbitrary and have nothing to do whatsoever with the expected actual carbon impacts of CFP implementation in Oregon in the 2016-2025 timeframe.

As detailed in the attached comments, we strongly recommend that DEQ exclude indirect effects from the CFP’s carbon intensity scoring framework until such time as there is broad scientific agreement on the best methodology for estimating the indirect effects for all fuels. As the Rulemaking Advisory Committee process clearly demonstrated, such consensus and agreement on appropriate methods remains elusive.

Further, even if it was appropriate to include ILUC factors for biofuels in the CI scoring framework, DEQ is proposing to use factors that have been shown to be grossly exaggerated and based on outdated information and data. More recent and scientifically robust analyses conducted by the U.S. Department of Energy’s Argonne National Laboratory, the University of Illinois-Chicago, and Purdue University have produced ILUC emissions estimates for corn ethanol that are roughly equivalent to just *one-third* of the

ILUC factor proposed by DEQ. In addition, a careful review of U.S. and global land use trends over the past decade conducted by economists at Iowa State University provides no evidence that the types of “biofuels-induced” land use changes predicted by general equilibrium economic models have in fact occurred.

Not only are DEQ’s proposed ILUC penalties for corn ethanol scientifically unjustified, but they also significantly complicate compliance with the CFP in the early years of the program. Under the California LCFS, the use of readily available sources of grain-based ethanol helped regulated parties generate an amount of compliance credit sufficient to offset gasoline deficits in the early years of the standard, allowing for a gradual transition into CI reduction requirements. However, due to DEQ’s proposed CI values for the gasoline (E10) baseline, gasoline blendstock, and grain ethanol (i.e., with artificially high ILUC factors included), most readily available sources of grain-based ethanol will result in net deficit generation when blended at the 10% level under the early years of the Oregon CFP. This will preclude meaningful levels of credit banking in early years.

The success of the Oregon CFP ultimately depends on having strong support and backing from affected industries and stakeholder groups. The U.S. ethanol industry will continue to support performance-based low carbon fuel programs that are grounded in the principles of fairness, sound science, and consistent analytical boundaries. However, introducing concepts that lack scientific integrity and balance into the regulatory framework (i.e., ILUC for biofuels but no indirect effects for other fuels) only creates stakeholder division and controversy. Again, we urge DEQ to exclude indirect effects from CI scoring in the Oregon CFP until more robust methods and broad consensus exist for addressing these potential effects. Alternatively, if DEQ feels it must proceed with ILUC factors at this time, we encourage the Agency to use the Argonne National Laboratory estimates for corn ethanol pathways at this time.

All of these concerns are addressed more fully in the attached comments. Thank you again for the opportunity to comment on the proposal.

Sincerely,

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

Geoff Cooper
Senior Vice President