LEAGUE OF WOMEN VOTERS® OF OREGON

The League of Women Voters of Oregon is a 101-year-old grassroots nonpartisan political organization that encourages informed and active participation in government. We envision informed Oregonians participating in a fully accessible, responsive, and transparent government to achieve the common good. LWVOR Legislative Action is based on advocacy positions formed through studies and member consensus. The League never supports or opposes any candidate or political party.

July 16, 2021

To: The Department of Environmental Quality (DEQ) Climate Protection Program (CPP)
GHGCR2021@deq.state.or.us

Re: Comments for Rulemaking Advisory Committee Meeting 7

The League of Women Voters believes that climate change is a serious threat facing our nation and planet. The League believes that an interrelated approach to combating climate change—including through energy conservation, air pollution controls, building resilience, and promotion of renewable resources—is necessary to protect public health and defend the overall integrity of the global ecosystem.

Thank you for the opportunity to provide comments to the Department of Environmental Quality (DEQ) Climate Protection Program (CCP) for Rulemaking Advisory Committee (RAC) meeting 7. We acknowledge that you have a difficult task to implement a meaningful program under many constraints. **In particular, there is less than a month between the planned approval of the rules by the Environmental Quality Commission (EQC) in December and the required start of the program on January 1, 2022.**

We have been disappointed in the lack of detail regarding the program elements in the draft rules presented so far. It is not surprising that the information on forms to be filled out and the recordkeeping requirements are very detailed, since DEQ has been monitoring air and water quality for many years. However, we do not feel the specific program details provided are sufficient to give the guidance necessary for the program. **In addition, the draft rules do not cover the integration of this program with other programs being developed or modified to implement EO 20-04, climate actions being taken by other agencies, and responses to future state and federal actions.** In particular, five of the stationary sources likely to be considered are also on the Cleaner Air Oregon Group 1 or 2 call-in list and three others are covered by the Regional Haze program.

Because we believe that updating the rules to provide sufficient guidance for the start of the program is the highest priority, we will be concentrating in this letter on those details that need to be pinned down for the first three-year compliance period. In addition to the lack of details, we also have concerns about some of the options selected by DEQ and we will include the critical ones here. Our comments about the program after the first compliance period will be presented during the public comment period.

We do appreciate that DEQ has responded to our request and those of many others that the final threshold for non-natural gas fuels be lowered from 200,000 MT CO_2e to 25,000.

We recognize that some decisions with which we previously disagreed, have been finalized and will not comment on them here. Given **HB 2021 has passed, the 100% Clean Energy bill, will eliminate almost all emissions from electricity sold in Oregon, whether it is generated here or imported, now we would like to see a consideration as to whether the CPP should eliminate the exemption for electricity generated in Oregon that is sent out of state.**

We do not have specific recommendations regarding the baseline or the cap trajectory, but just want to emphasize that the targets in the Executive Order are less stringent than what is scientifically considered to be necessary to stay below 1.5^{o} C. The absolute minimum goal of the Program should be that the covered sources have reduced emissions to the 2035 and 2050 target values.

We have stated previously that we believe the usage of the various flexibility options should change throughout the program to ensure meeting the targets and possibly additional requirements for their use should be included. We will discuss only their use at the beginning of the program here.

At the beginning of each year, a covered source is given the number of Compliance Instruments (CI) equal to the number of metric tons of CO_2e it is allowed to emit. To allow for variation a compliance period of three years is set. For each metric ton of CO_2e emissions during a compliance period, the covered source must turn in a CI or Community Climate Investment credit (CCI), with the number of CCIs not exceeding 20% of its compliance obligation.

We previously expressed our concern about Compliance Instruments (CI) being usable indefinitely. We see in draft 2 that the Community Climate Investment (CCI) credits are also usable indefinitely. In addition, a covered source is allowed to buy CCIs up to half of its compliance obligation at a lower price than later in the program, meaning those above the 20% usage limit will have to be banked.

Making early reductions greater than required or buying excess CCIs will allow a covered source to use the banked CIs and CCIs to avoid having to reduce emissions. The modeling data show that in fact the highest use of banked CIs is in 2050 and the final emissions are above their cap. CCIs were used at high levels throughout the period. We therefore object to a CCI usage rate as high as 20%, the indefinite usage period for CIs and CCIs, and especially the 50% purchase limit for CCIs.

There is a lot of detail about the administration of the CCI process in draft 2. Although the DEQ provided proposed modifications to the CCI section at Meeting 7, it is still not specific enough with respect to the projects that can be funded. The assumption throughout the development of the program has been that each CCI credit must correspond to one metric ton of CO_2e emission reduction; we believe that this should be the requirement. We do agree that priority should be given to projects that also reduce other air contaminants and benefit communities that are disproportionately burdened by climate change, air contamination, and/or high energy burden.

Draft 2 provides that stationary sources would be subject only to a Best Available Emission Reduction (BAER) assessment and implementation, not a specified cap on emissions. We did not review the details of provisions applicable to stationary sources. However, we still believe that if BAER is used, this should be in addition to, not instead of, their having to reduce emissions according to a cap. It should also be kept in mind that many of the stationary sources are also generating toxic co-pollutants in vulnerable neighborhoods, so potentially they should have stricter requirements.

We have previously stated that the penalty for non-compliance needs to be large enough that it will not just be treated as "business as usual". It was proposed at Meeting 7 that each metric ton of CO_2e above the compliance obligation will be treated as a separate violation, which would allow larger penalties without requiring additional authorization. We support this approach.

We were very disappointed with the quality of the modeling results. There were obvious calculation errors, such as unreasonable values, or in one case, exact duplication of results for two scenarios. We also saw the dependence on a lot of very detailed variables, which could not possibly be predicted almost thirty years in the future. We decided that the only data we would seriously consider was the usage of the flexibility options; however, even that was not as useful as we would have expected, because the model built in a fixed hierarchy with CCIs first, (with usage allowed either if needed to reduce emissions **or if the cost of reductions were more than the cost of the CCI)**, banked CIs second, and trading with another covered source third.

Thank you again for considering our testimony. We look forward to encouraging progress in these efforts which are so important to the League, to Oregonians, and to the planet.

Rebecca Gladstone	Claudia Keith	Kathy Moyd
LWVOR President	Climate Emergency Coordinator	Climate Emergency Portfolio

Cc: Richard Whitman, Director of Environmental Quality Commission DEQ