



Oregon

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Ms. Gina McCarthy, Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Administrator McCarthy:

Oregon appreciates the opportunity to provide comment to the U.S. Environmental Protection Agency (EPA) on the Clean Power Plan Proposed Rule ("Proposal") to reduce greenhouse gas pollution from existing power plants using Section 111(d) of the Clean Air Act ("CAA"). The Proposal is a welcome federal response to reversing climate change and is a good first step in mitigating the effects of greenhouse gas pollution across the country.

I commend the EPA for accelerating a national response to the costs and risks of climate change. Oregon already is experiencing the impacts of climate change, from ocean acidification and dead zones offshore to rampant wildfires last summer that cost more than \$120 million. This bold step will protect the health of citizens across the country while supporting the growing energy efficiency and renewable energy economy on the West Coast. In addition, I appreciate the Proposal's emphasis on giving states flexibility to build on programs and partnerships that already are protecting public health, saving consumer's money, and spurring innovation in cleaner, safer energy.

My comments include general observations on the approach taken in developing the Proposal, as well as specific recommendations for the final Clean Power Plan regarding important compliance considerations for Oregon. These comments have been developed through close collaboration among staff at Oregon's Department of Environmental Quality (DEQ), Oregon Department of Energy (ODOE), and the Oregon Public Utility Commission (PUC) and through outreach with a wide range of stakeholders.

The following sections are not exhaustive of every issue identified by Oregon agencies and stakeholders or responsive to each solicitation for comment included in the Proposal. Instead, these comments focus on topics of most significance to developing a compliance plan for Oregon that can cost-effectively achieve the emission reductions required by the Proposal. The following principles have guided the development of these comments:

- Oregon supports maximizing carbon reductions at least cost, by leveraging the full range of states' tools and investments and possible creative multi-state opportunities;

- Oregon supports EPA's approach to developing the "Best System of Emission Reduction" (BSER) and accounting for emission reductions from re-dispatch, renewable energy development, and energy efficiency measures;
- Oregon seeks to ensure that the tools used to develop the building blocks of the BSER are available, if reasonably possible, for states to use as emissions reduction compliance measures;
- Oregon focuses on issues that are of primary or unique importance to the State and the Northwest region; and
- Oregon offers workable solutions, rather than only identifying concerns.

Summary of Key Recommendations

EPA's use of the inter-connected power system as its regulatory framework in the Proposal will achieve significant, cost-effective emission reductions, primarily because it affords States, utilities, and power plants the flexibility to reduce emissions through a range of methods. The general approach EPA has taken to develop the BSER aligns with Oregon's objectives and prior input to EPA. However, the resultant emission reduction requirements in the Proposal also make it critical that Oregon and other states be allowed to account for the full extent of emission reductions achieved through investments in renewable energy and energy efficiency in state compliance plans.

Of critical importance to Oregon is the possibility that energy efficiency investments may not be credited for the full breadth of resultant emission reductions. It is vital that Oregon and other states be able to credit the entire amount of emission reductions produced from energy efficiency investments so that states are able to achieve the appropriately ambitious goals in the Proposal in a cost-effective manner. These concerns and workable solutions are further outlined in Section V of this letter.

The following are additional key recommendations in this comment letter. Each recommendation includes background information with one or more workable solutions that Oregon urges EPA to incorporate in the final Clean Power Plan.

- **Baseline:** EPA should use at least the most recent three years as the baseline, instead of using only 2012. (*See Section II(B)*).
- **Exceptional Events:** EPA should accommodate exceptional events outside the control of states that occur during the compliance period, such as extreme or unusual weather events that are significantly different from conditions during the baseline period. (*See Section II(C)*).
- **Double Counting:** To avoid disincentives for energy efficiency investments, EPA should require states using a mass-based state compliance plan to account for emission reductions occurring due to actions taken by other states to avoid possible double counting of emission reductions, while other states should be required to cooperate in sharing necessary data. (*See Section III(B)*).
- **Renewable Energy Compliance:** Oregon supports EPA's consumption-based approach to renewable energy crediting in state compliance plans. (*See Section IV(B)*).

- **Alternate Renewable Energy BSER Calculation:** Oregon supports the alternative method for calculating the renewable energy portion of the BSER, but with a modification to use regional technical and economic potential for each technology. (See *Section IV(C)*).
- **Renewable Energy Technologies:** Oregon recognizes that EPA likely intends to allow states to credit the full range of renewable energy generation, but EPA should, nevertheless, clarify that all emission reductions resulting from a range of renewable technologies, such as biomass, incremental hydroelectric power, and marine renewable energy, are acceptable in a state compliance plan. (See *Section IV(D)*).
- **Energy Efficiency Compliance Approach:** As discussed above as the most critical concern for Oregon, EPA should adopt a consistent compliance approach requirement where the state that implements an energy efficiency measure will claim the resulting emission reductions in its state compliance plan. (See *Section V(B)*).
- **Hydroelectric Power System Energy Efficiency Measures:** EPA should allow states to credit end use efficiency measures that reduce demand on the carbon-free hydroelectric power system and subsequently offset fossil-fuel generated power in a state compliance plan. (See *Section V(C)*).
- **Crediting Energy Efficiency:** For crediting emission reductions resulting from energy efficiency measures, EPA should allow each state to assign an emission reduction value equal to the emissions rate of the power pools' marginal resources. (See *Section V(D)*).
- **Federal Entity Compliance Measures:** EPA should clarify how compliance measures involving federal entities, such as Bonneville Power Administration, may be incorporated in a state compliance plan to leverage emission reductions from federal investments renewable energy and energy efficiency. (See *Section V(E)*).
- **Types of Energy Efficiency Measures:** EPA should allow states to credit energy savings from demand response, enforcement of building codes, federal and state appliance standards, and market transformation in a state compliance plan through robust evaluation, measurement, and verification protocols. (See *Section V(F)*).
- **Periodic BSER Re-Evaluation:** EPA should develop a timeline and approach for periodic re-evaluation of the BSER. (See *Section VI(A)*).
- **Multi-State Compliance:** EPA should clarify that states may cooperate regionally without blending state goals into a regional goal, expand options to explicitly allow for a variety of multi-state arrangements, and allow for updates to state compliance plans if later multi-state agreements emerge. (See *Section VI(B)*).

Organization of Comments

The first section of this letter expresses support for the overall approach EPA has taken in developing the Proposal in general and the BSER specifically. The second section provides a brief description of the power sector in Oregon and the Northwest to provide context for comments on compliance issues that are of particular importance to Oregon and the region. The third section addresses key considerations related to crediting and double counting, which are relevant to the overall regulatory framework of the Proposal. The fourth section provides comments specific to renewable energy and the fifth section provides comments specific to energy efficiency. The letter closes with administrative and scheduling related comments.

I. SUPPORT FOR INCLUDING RE-DISPATCH, RENEWABLE ENERGY, AND ENERGY EFFICIENCY IN THE BSER

EPA appropriately defined the "system" in the BSER broadly to encompass many of the least-cost measures that can reduce carbon dioxide emissions at existing fossil-fuel power plants. In particular, the EPA has correctly accounted for emission reductions available through re-dispatch to natural gas plants, renewable energy development, and energy efficiency measures. In Oregon, renewable energy and energy efficiency provide two of the most significant methods for reducing greenhouse gas emissions from the power sector, while driving economic development and reducing costs to utility rate payers.¹ According to the BSER calculation, 56 percent of the Oregon goal is derived from blocks three and four.²

Prior to the issuance of the Proposal, Oregon expressed support for renewable energy and energy efficiency to be incorporated in the BSER through three letters sent to EPA:

1. In a letter dated March 10, 2014, Oregon Governor John Kitzhaber wrote to express support for EPA developing a plan to cut carbon emissions from the power sector. Governor Kitzhaber urged EPA to achieve meaningful greenhouse gas emission reductions from existing power plants by defining the BSER broadly to include renewable energy and energy efficiency.
2. Oregon Attorney General Ellen Rosenblum joined Attorneys' General from 12 other states and the District of Columbia in a letter explaining how EPA's legal authority under Section 111(d) of the CAA allows for the BSER to be defined broadly to include renewable energy and energy efficiency.
3. Oregon DEQ joined environmental and energy agencies from 14 other states to sign a letter developed in cooperation with the Georgetown Climate Center that expresses strong support for EPA to look broadly at the emission reductions available in the power sector and provides examples from many states that are already reducing emissions with renewable energy and energy efficiency.³

Because the BSER included in the Proposal accounts for the emission reductions available from renewable energy and energy efficiency as encouraged by Oregon's prior input to EPA, these comments do not directly address the stringency of the emission reductions required in the Proposal. However, the stringency of emission reduction goals, which is a natural result of taking into account renewable energy and energy efficiency, makes it vital that states, utilities, and facility operators, are able to receive credit for the full breadth of emission reductions from their investments in these measures. The comments in the following sections explain some of the unique characteristics of the power sector in Oregon and the Northwest region and how this produces significant considerations for accounting and attributing emission reductions from renewable energy and, in particular, energy efficiency.

¹ See Appendix 1: Renewable Energy and Energy Efficiency Resource Portfolio.

² Blocks three and four together are 193 pounds of emission reduction out of 345 pounds of Oregon's total emission reduction goal. See U.S. ENVIRONMENTAL PROTECTION AGENCY OFFICE OF AIR AND RADIATION, GOAL COMPUTATION TECHNICAL SUPPORT DOCUMENT (2014), available at <http://www2.epa.gov/sites/production/files/2014-06/documents/20140602tsd-goal-computation.pdf>

³ Letter to Administrator Gina McCarthy from fifteen state environmental agency leaders (December 16, 2013), available at www.georgetownclimate.org/states-provide-epa-with-a-road-map-for-cutting-carbon-pollution

II. KEY CONSIDERATIONS RELATED TO THE UNIQUE POWER SECTOR IN OREGON AND THE NORTHWEST

This section describes the power sector in Oregon and the Northwest, and includes several recommendations about how the compliance process could be improved to better accommodate the unique characteristics of the Northwest region.

A. *Overview of the hydroelectric power system in the Northwest*

Oregon and the Northwest are uniquely reliant on hydroelectricity generation.⁴ This characteristic influences carbon dioxide emissions in the region. Hydroelectric power provides about three-quarters of the region's electric energy on average.⁵ The combined output from dams in the Federal Columbia River Power System (FCRPS) in Oregon, Washington, Idaho, and the western half of Montana averages at least 16,000 average megawatts (aMW).⁶ In good water years, surplus power is sold in and outside the region.⁷

While the Northwest hydroelectric power system provides an abundance of cheap and non-emitting electricity to the region, it is also highly variable depending upon annual weather conditions. The hydroelectric power system in the Northwest has a capacity of 33,000 MW; yet it operates at approximately a 50 percent capacity factor because of limited water supply and environmental requirements, such as the provision of sufficient water flow for endangered salmon populations. In the wettest years, it can produce over 19,000 aMW. In the driest year on record it would produce only 11,800 aMW of energy.⁸

Annual variability of the Northwest hydroelectric power system produces commensurately variable demand for thermal power generation to meet the remaining regional electric demand. Thus a direct relationship exists between the water year and the carbon dioxide emissions produced by electric generation in the Northwest region. High water years allow for greater hydroelectric power generation and lower demand on gas and coal plants, while low water years reverse this dynamic. For example, 2006 was a high water year and approximately 52 million tons of carbon dioxide were emitted from generation serving demand in the Northwest, while in the following year the region experienced a low water year and emissions increased 25 percent to 65 million tons of carbon dioxide.⁹

Oregon's electricity customers are served by two types of electric utilities: consumer-owned utilities and investor-owned utilities.¹⁰ Consumer-owned utilities, including municipal owned utilities, cooperatives, and public utility districts, have priority access to the output of the carbon emission-free FCRPS marketed by BPA and together serve about 30 percent of the state's

⁴ See Appendix 6: Background on unique hydroelectric power sector in Oregon and the Northwest.

⁵ See NORTHWEST POWER AND CONSERVATION COUNCIL, SIXTH NORTHWEST CONSERVATION AND ELECTRIC POWER PLAN 6-17, available at: www.nwcouncil.org/media/6371/SixthPowerPlan_Ch6.pdf [hereinafter NWPC SIXTH POWER PLAN].

⁶ An average megawatt (aMW) is 8,760 megawatt hours of electric energy.

⁷ See BONNEVILLE POWER ADMINISTRATION, HYDROPOWER HOW THE FEDERAL COLUMBIA RIVER POWER SYSTEM WORKS FOR YOU (2010), available at www.bpa.gov/news/pubs/GeneralPublications/fcrps-Hydropower.pdf

⁸ See NWPC SIXTH POWER PLAN, *supra* note 5, at 6-17.

⁹ GILLIAN CHARLES, NORTHWEST POWER AND CONSERVATION COUNCIL, REGIONAL GHG EMISSIONS PRESENTATION 7, available at www.nwcouncil.org/media/6865106/G-Charles-Council-Staff-GHG-Symposium.pdf

¹⁰ See Appendix 3: Map of Oregon Electric Utility Service Territories.

electricity load. Portland General Electric (PGE), Pacific Power, and Idaho Power Company are investor-owned utilities that serve roughly 70 percent of the load in Oregon.¹¹ Much of the fossil-fuel generation used to serve the investor-owned utility customers in Oregon is imported from Montana, Utah, and Wyoming. In this context, Oregon is a net importer of fossil-fuel generated power. Overall, EPA has characterized Oregon as a net exporter of energy because of the hydroelectricity generated through the FCRPS and used throughout the region, yet the investor-owned utilities are “importing” significant carbon emissions.

B. Recommendation: EPA should use at least the most recent three years as the baseline, instead of using 2012.

Generation data over a single year is unlikely to represent power generation in the highly variable stream flows of the FCRPS. As discussed above, the variability of the water year in the Northwest means that there is no “typical” annual emission rate. The fossil-fuel generation will follow the production from the hydroelectric power system. Oregon recommends that EPA use at least the average of the last three available years as a baseline period, rather than using the baseline year of 2012. A baseline with the most recent three years is a reasonable compromise between using the most current data and attempting to develop a baseline that incorporates year-to-year variations in generation and emissions. Furthermore, an average of the three most recent years also aligns the baseline with the rolling three year average EPA is proposing for compliance.

C. Recommendation: EPA should accommodate exceptional events outside the control of state that occur during the compliance period, such as extreme or unusual weather events that are significantly different from conditions during an averaged baseline period.

Oregon supports the three-year rolling average for compliance after 2030, as contemplated in the Proposal. This rolling average, however, should be tempered by an allowance for unusually unfavorable conditions that inhibit a state’s ability to achieve the emission goal during a certain period. This is especially important for Oregon and states in the Northwest given our reliance on generation from a hydroelectric power system that is directly influenced by annual temperature and precipitation patterns.

Furthermore, weather patterns are expected to become more variable and generally less favorable for hydroelectric power generation in the region as the climate warms. Current climate models show, with significant confidence, lessened seasonal snow pack and dramatic changes in seasonal stream flow¹² that would lower hydroelectric power generation and in turn increase demand for thermal generation. While this general trend illustrates the need for actions like the Proposal to reduce greenhouse gas emissions from the power sector to slow climate change, it also makes consistent compliance in states like Oregon unrealistic during periods of unusual or severe drought or other environmental extremes.

¹¹ See Appendix 4: Oregon Electric Supplier Background Information for a table of percentage of load served by utility type in Oregon.

¹² See NWPC Sixth Power Plan, *supra* note 5, L-5.

It is prudent for EPA to develop a compliance approach that acknowledges extreme weather events or other conditions outside the control of states for which the normal planning and regulatory process established by the CAA is not appropriate. EPA already provides a similar approach to avoid determining that areas of the country exceed the National Ambient Air Quality Standards by excluding air quality monitoring data collected during a period for which a state adequately demonstrates an exceptional event caused the exceedance. Oregon suggests that EPA use a similar approach in the Proposal that would allow states to show that an exceptional event has created conditions that made it infeasible for the reliable generation and transmission of electricity to achieve emission reduction requirements in a specific compliance period.

III. KEY CONSIDERATIONS RELATED TO CREDITING AND DOUBLE COUNTING

An accounting mechanism that prevents double counting of emissions reductions across state lines is essential because of the interconnected nature of the electric system, whereby resources in one state often serve customers in another state. Without a clear accounting mechanism, the issue of double counting may extend across the regulatory framework of the Proposal, and, in particular, impact how emission reductions resulting from renewable energy development and energy efficiency should be treated in a state compliance plan. This section recommends a simple approach to overcome issues related to double counting of emissions reductions in the Proposal.

A. Overview of Crediting and Double Counting Concerns

Double counting of emission reductions from energy efficiency measures may occur when states within the same interconnected system elect to comply using a combination of rate-based and mass-based systems. As discussed in Section II(A), most fossil-fuel generation serving Oregon load is sited in other interconnected states. Should one of the states from which Oregon imports generation elect to use a mass-based system, Oregon's investments in energy efficiency may automatically be counted by the exporting state unless corrective accounting measures are employed in the compliance process.

For example, in the summer months BPA sends large amounts of power from the FRCPS over a dedicated direct current line to the Los Angeles Basin, which offsets load that would otherwise be served by carbon intensive resources in California and neighboring Southwest states. Thus BPA and consumer-owned utilities' energy efficiency measures on the FRCPS cause Los Angeles to require less fossil-fuel generation in the summer months. If California were to use a mass-based approach in its state compliance plan, the energy savings from BPA and Oregon consumer-owned utilities may be double-counted in both Oregon and California.

B. Recommendation: To avoid disincentives for energy efficiency investments, EPA should require states using a mass-based state compliance plan to account for emission reductions occurring due to actions taken by other states to avoid possible double counting of emission reductions, while other states should be required to cooperate in sharing necessary data.

The Clean Power Plan should preserve credit for emission reduction from energy efficiency measures for the state that made the energy efficiency investment and from renewable energy development for the state that consumes the renewable energy and retires its attendant

Renewable Energy Credit (REC). In the case where states in an interconnected region concomitantly elect a combination of rate- or mass-based compliance, EPA should assure that double-counting does not result. EPA should include a presumptive approach for emission reductions to be attributed to the state investing in the reduction measures, along with a requirement that states using a mass-based approach must adjust their compliance documentation to reflect that they are not claiming credit for those emission reductions.

EPA should require a state using a mass-based compliance approach to account for any potential double counting issues in its state compliance plan. A state using a mass-based compliance approach should discount its emission reduction compliance number by any emission reductions that are the result of out-of-state investments in energy efficiency or renewable energy. Rate-based compliance states that are investing in energy efficiency measures should include a commitment in state compliance plans to provide any necessary data to mass-based compliance states upon request. EPA should verify the cross-state emission reductions resulting from energy efficiency measures in its review of each state's compliance plans.

IV. KEY CONSIDERATIONS RELATED TO RENEWABLE ENERGY

Oregon agrees with EPA that expanded renewable energy generation provides an important and cost-effective component of the Proposal. Oregon fully supports its inclusion in the BSER.

A. Overview of Renewable Energy in Oregon

Oregon is home to a full range of renewable energy resources, including wind, solar, geothermal, biomass, ocean energy, and hydroelectric power, and has a strong suite of policies to encourage the development and use of renewable energy in the state and the broader region. In 2007, Oregon enacted a renewable portfolio standard (RPS) that requires the largest utilities in Oregon to provide 25 percent of their retail sales of electricity from renewable sources of energy by 2025. This policy is the state's strongest device for furthering the development of renewable resources. Along with fellow Western states, Oregon has established a tracking system, Western Renewable Energy Generation Information System (WREGIS), to ensure that the attributes and megawatt hours (MWhs) of renewable energy are accounted for properly and double attribution of renewable energy does not occur.

B. Recommendation: Oregon supports EPA's consumption based approach to renewable energy crediting in state compliance plans.

Oregon supports the approach in EPA's proposal of allowing states to take into account in their state compliance plans all of the MWhs of renewable generation and associated carbon dioxide emission reductions from renewable energy measures implemented by the state, whether they occur in the state or in other states. This approach is consistent with how WREGIS states and others across the country currently administer their RPS programs. It also ensures that ratepayers who pay for the renewable resources are credited with the emission reductions they create. Oregon ratepayers pay for RECs that are retired on their behalf as required by the RPS. Oregon ratepayers should therefore be awarded the carbon emission reduction credit those renewable MWhs create via Oregon's compliance plan.

C. Recommendation: Oregon supports the alternative method for renewable BSER calculation, but with a modification to use regional technical and economic potential for each technology.

In response to specific requests from EPA for comment on the Alternative Renewable Energy Approach, Oregon generally supports the conceptual framework of using technical and economic potential to quantify renewable energy generation for purposes of setting state goals, as discussed in the Alternative Renewable Energy Approach TSD. Oregon recommends that EPA develop a methodology that uses regional potentials for technologies as opposed to state-by-state assessments, such as the methodology discussed in section 1.4 of the Alternative Renewable Energy Approach TSD.¹³ In addition, EPA should design a methodology that does not apply a development rate constraint to the potential renewable energy available as proposed in the alternative methodology. Using cost-effective potential reflects the actual opportunity for expanding renewable resources in any given region or state.¹⁴ Further constraints are unnecessary.

This modified alternative renewable energy approach has several merits. A methodology using technical and economic potential more accurately reflects the availability of cost-effective renewable energy compared to the proposed approach of using RPS requirements already established by states. RPS is a specific policy instrument whose stringency varies widely for reasons often unrelated to the cost or availability of renewable energy.

Generally, renewable power can flow within a region, not just within the state in which it is sited. Using a regional technical and economic potential for technologies will help to average out anomalous state-level results and generate state-level targets that are more indicative of states' ability to cost effectively develop renewable power to serve their demand. Apportioning a regional average potential for renewable energy to states based on their share of the regional electric load provides a better indication of states' abilities to invest in renewable energy to serve their loads as these investments are likely to site the renewable energy within the region but may not occur within the borders of the state making the investment. A regional approach to this building block ensures greater symmetry between tools available for compliance and the methodology used to construct the BSER.

¹³ See U.S. ENVIRONMENTAL PROTECTION AGENCY, ALTERNATIVE RENEWABLE ENERGY APPROACH TECHNICAL SUPPORT DOCUMENT (2014), available at <http://www2.epa.gov/sites/production/files/2014-06/documents/20140602tsd-alternative-re-approach.pdf>

¹⁴ For example, the National Renewable Energy Laboratory examined the potential for renewable energy to meet demand in the Western U.S. once the requirements of state RPS policies are met in the mid-2020s and found that significant renewable potential exists in the region and is likely to be competitive with the levelized cost of a locally-sited combined cycle gas turbine. The study also finds that regional development of additional renewable energy supplies is likely to be the most cost-effective. See DAVID HURLBURT, JOYCE MCLAREN AND RACHEL GELMAN, NATIONAL RENEWABLE ENERGY LABORATORY, TECHNICAL REPORT NREL/TP-6A20-57830 (2013), available at <http://www.nrel.gov/docs/fy13osti/57830-1.pdf>

D. Recommendation: Oregon recognizes that EPA likely intends to allow the full range of renewable energy generation, but EPA should, nevertheless, clarify that all emission reductions resulting from a range of renewable technologies, such as biomass, incremental hydroelectric power, and marine renewable energy, are acceptable in a state compliance plan.

Oregon supports EPA allowing generation from biomass in a state compliance plan similar to non-emitting generation and consistent with EPA's forthcoming biogenic carbon dioxide accounting framework. EPA should finalize and publish this framework as soon as possible. Doing so will provide clarity and assurance for how biomass can be used for compliance with the Proposal and aid in early design of state compliance plans. Also, adding carbon capture and sequestration (CCS) technology to a biomass facility can lead to a net sequestration of carbon. Emissions from such facilities should be calculated in the same way as for a coal facility with CCS. This method of calculation for a biomass facility with CCS potentially leads to negative net emissions from those facilities.

Oregon supports EPA allowing incremental hydroelectric power projects to provide compliance credit as these types of upgrades extend the hydroelectric power system and provide for real emission reductions. The estimates and accounting for this technology can vary widely among operators; EPA should, therefore, consider best practices in the states when it develops the methodology for these calculations. Additionally, incremental hydropower is an efficiency improvement and EPA should consider providing states guidance on the appropriate measure life for such an upgrade.

Finally, commensurate with the view that EPA should allow states to retain the credit for the renewable power that they incent, regardless of where that generation occurs, Oregon supports EPA allowing offshore wind and wave and other marine renewable resources to provide compliance credit in the same manner as other renewable energy technologies, whether they are located in state territorial waters or federal waters. Marine energy is an emerging renewable energy sector that offers unique benefits to coastal communities with limited power generation options.

V. KEY CONSIDERATIONS RELATED TO ENERGY EFFICIENCY

Oregon agrees that expanded energy efficiency measures provide an important and cost-effective component of the BSER. Oregon fully supports its inclusion in the BSER calculation. However, Oregon has significant concerns about the proposed approach for crediting energy efficiency in state compliance plans. In particular, the Proposal as described in the preamble presents insurmountable challenges for states like Oregon that are net importers of fossil generation yet are characterized in the EPA's BSER calculation as net exporters of electricity overall.

Under the proposed approach, Oregon would not be able to develop a cost-effective compliance plan because the state would only be able to credit a small fraction of the investment in energy efficiency that can be tracked to fossil-fuel generation in the state. This would effectively render as unusable otherwise cost-effective investments in energy efficiency that were assumed in setting the BSER, and force Oregon to rely on much more expensive and potentially infeasible over-compliance with measures contemplated in the other three building blocks. It is of utmost

importance that EPA allows Oregon to take credit for the full breadth of emission reductions resulting from energy efficiency investments in its state compliance plan.

The following sections describe this issue and solutions for providing reasonable credit to energy efficiency while still avoiding double counting of emission reductions from a measure by two or more states.

A. Overview of Energy Efficiency in Oregon

Most Northwest states, consistent with the Northwest Power Act of 1980, treat energy efficiency on par with generating resources.¹⁵ When calculating Oregon's BSEER and the rate goal, EPA properly accounted for all energy efficiency investment in Oregon including energy efficiency investments made on the systems served almost solely by hydroelectric power. EPA's calculation of Oregon's current energy efficiency savings uses the Energy Information Agency (EIA) state data, which includes all energy efficiency savings within the state. EPA's inclusion of these resources innately recognizes the emission reduction characteristics of energy efficiency measures placed on utility systems served by FCRPS. In order to reach the emission rate goal set by EPA, Oregon will need to similarly use all tools at its disposal including all energy efficiency acquired within the state.

As described in Section II (A), BPA markets and distributes power from the FCRPS across four states, 142 utilities, and serves 30 percent of the Northwest's power needs. Since 1980, BPA and its customer utilities have invested heavily in energy efficiency.¹⁶ These investments were made in large part to offset future costs associated with the purchase of marginal power and new resources, which are fossil-fired.¹⁷ Since 2005, cumulative savings regionally from energy efficiency improvements in the hydroelectric power system are nearly 1,500 aMW, which significantly dampen regional load growth and, for some utilities, may be completely offsetting load growth.

In addition, in accordance with statutory and regulatory directives, customers of Pacific Power and Portland General Electric fund energy efficiency measures through the Energy Trust of Oregon (ETO), an independent, third party non-governmental organization that serves roughly 70 percent of electric customers in Oregon. Over the past 12 years, ETO has acquired 3,819,360 MWhs (436 aMW) in electric energy savings.¹⁸ In 2013, the levelized costs for energy efficiency savings were 2.4 cents per kilowatt hour (kWh).¹⁹ As part of the larger WECC-wide

¹⁵ See Appendix 6: Background on unique hydroelectric power sector in Oregon and the Northwest.

¹⁶ This investment is equal to roughly 5,300 aMW, which is enough to power the state of Oregon. Memorandum from Tom Eckman and Gillian Charles to the Northwest Power and Conservation Council regarding 2012 Regional Conservation Achievements and Projections for 2013-2015 (January 7, 2014), available at <http://www.nwcouncil.org/media/6914345/8.pdf>.

¹⁷ See, generally, NWPC SIXTH POWER PLAN; *supra* note 5, at chapters three and four.

¹⁸ See ENERGY TRUST OF OREGON, 2013 ANNUAL REPORT TO THE OREGON PUBLIC UTILITY COMMISSION AND ENERGY TRUST BOARD OF DIRECTORS 7 (April 15, 2014), available at: http://energytrust.org/library/reports/2013_ETO_Annual_Report.pdf.

¹⁹ See *id.*

interconnected power system, Oregon's energy efficiency measures, funded through significant Oregon ratepayer investment,²⁰ have reduced the use of WECC fossil-fuel generation.²¹

B. Recommendation: EPA should adopt a consistent compliance approach requirement where the state that implements energy efficiency measures will claim the resulting emission reductions in its state compliance plan.

1. Oregon Does Not Support the Energy Efficiency "Track Back" to the Electric Generating Unit (EGU) Compliance Approach in the Preamble.

EPA's base proposal²² for energy efficiency attribution would render energy efficiency programs ineffective in the state because Oregon could only claim as little as 12 percent of the emission reductions resulting from all of its demand side energy efficiency investments.²³ This language in the preamble would limit attribution of emission reductions associated with energy efficiency in a state compliance plan to only the portion of the energy savings that could be "tracked back"²⁴ to affected in-state EGUs. Further, the Proposal does not appear to require a similar "track back" requirement for renewable energy. EPA requires only energy efficiency to demonstrate a direct causal relationship between the energy efficiency acquired and the resultant reduction in a specific EGU's operation. In Oregon, this approach would likely result in energy efficiency no longer being considered a cost-effective emissions reduction strategy because only a small fraction of the energy savings can be attributed to reduction of emissions at in-state EGUs.

EPA has identified eight fossil-fuel EGUs in Oregon that are subject to the Proposal. Five of these EGUs are owned by Oregon's investor-owned utilities and are, in part, used to serve a portion of their Oregon loads.²⁵ While Oregon is an importer of significant carbon intensive generation, EPA has characterized Oregon as a net exporter of generation, largely because of FCRPS generation. As a result of Oregon's net-exporter status, EPA does not apply a net import factor to Oregon's Block Four BSER determination, resulting in an unadjusted Block Four goal

²⁰ See, *id.* at 23. See, also, BONNEVILLE POWER ADMINISTRATION, CONSERVATION RESOURCE ENERGY DATA 15 (2011), available at http://www.bpa.gov/EE/Utility/research-archive/Documents/RED_Book_FY11_FINAL.pdf

²¹ See NWPCC SIXTH POWER PLAN, *supra* note 5, at chapters three and four. See, also, Memorandum from Tom Eckman to the Northwest Power and Conservation Council regarding Sixth Plan CO2 Emissions Forecast Compared with EPA's Proposed Emission Limits for Existing Generating Facilities (July 29, 2014) available at <https://www.nwcouncil.org/media/7119845/4.pdf>

²² See Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units, 79 Fed. Reg. 34829, 34922 (proposed June 10, 2014) (to be codified at 40 C.F.R. pt. 60) [hereinafter EPA PROPOSAL]. See, also, U.S. ENVIRONMENTAL PROTECTION AGENCY OFFICE OF AIR AND RADIATION, STATE PLAN CONSIDERATION TECHNICAL SUPPORT DOCUMENT 87 (June 2014) available at <http://www2.epa.gov/sites/production/files/2014-06/documents/20140602tsd-state-plan-considerations.pdf> [hereinafter STATE PLAN TSD].

²³ For a spreadsheet and further details about this calculation, see Appendix 2: Calculation of 12 percent of energy efficiency emission reductions credited to Oregon under "Track Back" to EGU Compliance Approach in the Preamble.

²⁴ EPA staff used the term "tracked back" during clarifying discussion, which Oregon uses herein for consistency.

²⁵ According to Oregon PUC Order Number 10-457 in Docket LC 48 at the Oregon Public Utility Commission in 2010, the Boardman Generating plant, Oregon's only coal fired generator, will close at end of 2020. The remaining seven existing generating units are natural gas plants. Two of these generators are owned by independent power producers, leaving five that are owned by Oregon IOUs.

that represents 1.5 percent of *all statewide* load. On average, however, these five in-state, investor-owned EGUs only make up roughly 12 percent of the total generation used to serve Oregon load.

Only 12 percent of Oregon's load is served by in-state, investor-owned, fossil-fuel EGUs in part because much of the remaining load is served by fossil generation imported from EGUs in other states. Oregon's load is also served by renewable generation or generation from the carbon dioxide-free FCRPS, which do not have EGUs subject to the Proposal. EPA's base proposal would allow Oregon to "take into account in its plan *only* carbon dioxide emission reductions occurring (or projected to occur) in the state that results from demand-side EE measures in the state."²⁶ Thus, under EPA's construct, as much as 88 percent of energy efficiency measures funded by Oregon customers are deemed to result in emissions reductions occurring in other states.

Oregon has been committed to energy efficiency since the 1980s and has received national recognition for its efforts and results. It has been consistently named one of the top five states for energy efficiency efforts.²⁷ Measures in place now will continue to save energy into the proposed 2020-2029 compliance period.²⁸ If Oregon's compliance plan included "only those carbon dioxide emission reductions occurring in the state that result from demand-side energy efficiency programs and measures implemented in the state,"²⁹ it would be extremely difficult and unnecessarily costly to meet the 2030 goal set by EPA.

This approach would affect the cost-effectiveness and overall continued use of energy efficiency in Oregon. If an Oregon energy efficiency investment can only claim 12 percent of its resulting emission reductions, then demonstrating cost-effectiveness of that energy efficiency investment would not be viable. Also, in the case where a mass-based system of compliance is utilized by a state exporting power to Oregon, the remaining 88 percent of emission reductions may be surrendered to states whose ratepayers did not make that long-term investment in energy efficiency – resulting in an unfair transfer of hundreds of millions of dollars of ratepayer investment.³⁰ While Oregon has long determined energy efficiency measures to be the most-sought after and least cost energy resource, under EPA's base proposal, energy efficiency measures would be relegated to the least-sought after and most-costly resource.

If EPA cannot allow Oregon to take full credit for in-state energy efficiency investments, thereby enabling Oregon to find parity in mechanisms used in goal setting and compliance, then one solution could be for EPA to revisit Oregon's Block Four emissions reduction goal computation. However, given the multiple implications described in this section, it would not be sufficient to

²⁶ EPA PROPOSAL, *supra* note 22, at 34922.

²⁷ See American Council for an Energy-Efficient Economy, The State Energy Efficiency Score Card (2013), available at <http://aceee.org/state-policy/scorecard>

²⁸ For a graphical representation of the energy efficiency supply curve see Appendix 1: Renewable Energy and Energy Efficiency Resource Portfolio. See, also, Northwest Power and Conservation Council, Energy Efficiency in the Future: The Sixth Northwest Power Plan (2010), available at: https://www.nwcouncil.org/media/30092/2012_06.pdf

²⁹ STATE PLAN TSD, *supra* note 22, at 87.

³⁰ See ENERGY TRUST OF OREGON, *supra* note 18, at 23. See, also, BONNEVILLE POWER ADMINISTRATION, CONSERVATION RESOURCE ENERGY DATA 15 (2011), available at http://www.bpa.gov/EE/Utility/research-archive/Documents/RED_Book_FY11_FINAL.pdf

simply adjust this goal to account for the fact that only a small percentage of in-state energy efficiency can be used for compliance, as this would retain the disincentives for further energy efficiency investment.

2. Instead, Oregon Supports the Compliance Approach Outlined in the State Plan Considerations TSD whereby the State that Implements Energy Efficiency Measures Will Claim the Resulting Emission Reductions in its State Compliance Plan.

The compliance approach outlined on page 88 of the State Plan Considerations Technical Support Document,³¹ whereby the state that implements energy efficiency measures may claim the resulting emission reductions, should be used in lieu of the approach described in the preamble for several reasons. This approach would accurately credit and incentivize energy efficiency investment in Oregon and other states that import fossil-fuel energy, thereby allowing Oregon to continue to use its energy efficiency infrastructure as a tool for compliance. This approach also provides parity between the mechanisms used to develop the BSER Block Four goal and compliance mechanisms available to Oregon and similarly situated states.

Furthermore, this approach will not result in double counting if it is combined with the recommendation in Section III, to require states using a mass-based compliance plan to account for emission reduction activities occurring in other states. Emission reductions resulting from energy efficiency measures can be demonstrated using regional average or marginal emission rates as discussed below. In addition, this approach may provide an incentive for states that serve Oregon load in the WECC to participate in a multi-state compliance approach.

C. Recommendation: EPA should allow states to credit end use efficiency measures that reduce demand on the carbon-free hydroelectric power system and subsequently offset fossil fuel generated power as emission reduction measures in a state compliance plan.

Energy efficiency reduces the need to generate electricity.³² Economic dispatch of generating resources generally means that resources with incremental fuel costs, primarily fossil-fuel generation, will be the first resources to curtail generation in response to lower demand as a result of energy efficiency measures. Even when energy efficiency is acquired in an Oregon utility territory served by the carbon emission-free FCRPS, that reduction in demand will reduce output from fossil-fuel generation throughout region. EPA should allow Oregon to credit these energy efficiency investments in its compliance plan.³³

EPA's methodology for calculating Oregon's building Block Four goal sends the correct signal to customers served by Oregon's consumer-owned utilities using the hydroelectric power system because their energy efficiency measures result in reduce emissions from fossil generation within

³¹ "State that implements the measure claims the emissions reduction benefit. Under this approach, the State that implements the measure..., claims the avoided CO₂ emissions regardless of where they occur." STATE PLAN TSD, *supra* note 22, at 88.

³² "Each aMW of unachieved conservation would increase average net annual CO₂ production by about 6,700 tons per year." NORTHWEST POWER AND CONSERVATION COUNCIL, CARBON DIOXIDE FOOTPRINT OF THE NORTHWEST POWER SYSTEM 11 (2007), available at <https://www.nwcouncil.org/energy/powerplan/5/2007-15/>

³³ For additional background on how energy efficiency measures affect the carbon-free hydroelectric power system, see Appendix 6: Background on unique hydroelectric power sector in Oregon and the Northwest.

the entire WECC region. For parity between this appropriate construction of Block Four in the BSER and a state compliance plan, Oregon must take full credit for its energy efficiency investments on the hydroelectric power system regardless of whether the emission reductions are directly attributable to in-state fossil-fuel generation resources. This approach allows for continued recognition of energy efficiency measures' influence on the carbon intensity resource mix within the WECC region and signals that energy efficiency investments that affect demand on the hydroelectric power system should continue in Oregon.³⁴

D. Recommendation: For crediting emission reductions resulting from energy efficiency measures, EPA should allow each state to assign an emission reduction value equal to the emissions rate of the power pools' marginal resources.

Oregon recommends that, in its final rule, EPA should include a crediting framework for emission reductions resulting from energy efficiency measures that complements the double-counting solution described in Section III. Each power pool and, therefore, each state within that power pool, should use a rate reduction value based on the resource mix serving that power pool at the margin. The rate reduction value could then be used as part of energy efficiency compliance in state plans within that power pool.

In response to EPA's proposal on page 34919-34920, Oregon believes that each state should be allowed to use the marginal hourly emissions rate (averaged over a year) from its power pool when assigning an emission reduction value to energy efficiency. Energy efficiency is not dispatchable. It reduces demand during the year with the hourly reductions dependent on the type of energy efficiency measure. Furthermore, because of the interconnected nature of power pools, energy efficiency investments in one state affect the utilization of power plants in other states. Thus, each state's load reductions will displace regional resources. Allowing a state to credit energy efficiency with its power pool's marginal emission rate recognizes the full breadth of regional effects from energy efficiency investments. In the Northwest many of the generation resources dispatched downward with a load reduction are not located in-state. Instead, much of the emission reductions from changes in Oregon load are from marginal fossil-fueled resources elsewhere in the West. It is therefore reasonable to credit Oregon's energy efficiency with an emission rate that reflects the marginal resources in the West. Oregon recommends that states should be required to demonstrate the reasonableness of the marginal emission rate that they propose in state plans to EPA.

E. Recommendation: EPA should clarify how compliance measures involving federal entities, such as BPA, may be incorporated in a state compliance plan to leverage federal investments in emission reductions from energy efficiency.

BPA makes significant investments in energy efficiency and in incremental hydroelectric power generation. These investments produce measureable and verifiable emission reductions. Because

³⁴ See BONNEVILLE POWER ADMINISTRATION, CASE FOR CONSERVATION: AN EXAMINATION OF THE REGIONAL, UTILITY AND CONSUMER PERSPECTIVES OF THE ECONOMIC IMPACT OF ENERGY EFFICIENCY (2013) available at http://www.bpa.gov/EE/Utility/toolkit/Documents/CaseForConservation_Final.pdf. See, also, HOPPER ET AL, ENERGY EFFICIENCY IN WESTERN UTILITY RESOURCE PLANS: IMPACTS ON REGIONAL RESOURCE ASSESSMENT AND SUPPORT FOR WGA POLICIES (2006) available at <http://emp.lbl.gov/publications/energy-efficiency-western-utility-resource-plans-impacts-regional-resource-assessment-a>

BPA is a federal entity, states have limited ability to enforce adherence to an investment plan in energy efficiency and renewable energy. If a state compliance plan is ultimately federally enforceable, EPA should clarify whether this federal enforceability extends to renewable energy and energy efficiency compliance measures that occur through actions of federal entities such as BPA. Another solution may be for EPA to allow states to set obligations on consumer-owned utilities that are then acted upon by a federal entity, while state enforceability is retained on the utilities themselves. This is a less efficient method for state compliance, and Oregon recommends that EPA help states develop an approach to directly include emission reductions achieved by federal entities such as BPA.

F. Recommendation: EPA should allow states to credit energy savings from demand response measures, enforcement of building codes, federal and state appliance standards, and market transformation in a state compliance plan through robust evaluation, measurement, and verification protocols.

As stated in the Proposal, Oregon agrees that EPA should open a discussion with states about Evaluation, Measurement and Verification (EM&V) to credit demand response, enforcement of building codes, federal and state appliance standards, and market transformation in state compliance plans.³⁵ With regard to EPA's statement that building codes and appliance standards, "have not typically been subject to similar evaluation of energy savings results"³⁶ Oregon offers a nuanced perspective. States should be allowed to include the energy savings of such measures in their state compliance plans if they can demonstrate robust development and application of EM&V standards for enforcement of building codes and for state appliance standards.³⁷ In addition, emission reductions resulting from demand response measures deserve separate treatment and analysis because they are not a type of demand-side energy efficiency measure, but rather they are a separate category of measures that can shift load to a different time of day.

There should not be national uniformity in EM&V practices and protocols for purposes of demonstrating energy efficiency savings in state compliance plans. Practices should be normalized where possible, and each state or region should develop EM&V protocols for measures that follow best known and acceptable practices. For those states and regions such as the Northwest, California, or the Regional Greenhouse Gas Initiative (RGGI) states, where energy efficiency practices are more mature, EPA should be careful not to create barriers to development of advanced measurement technologies.

For those states that have not had substantial practice verifying energy efficiency savings, EPA should offer technical assistance in program development. Subsequent to the final Clean Power Plan next year EPA should begin a process to develop best practices for EM&V, which those states can use as a tool to develop their own robust EM&V practices and protocols.

³⁵ "The EPA and its federal partners intend to discuss the development of appropriate EM&V protocols for such measures with states in the coming years." EPA PROPOSAL, *supra* note 22, at 34921.

³⁶ *Id.*

³⁷ See Appendix 15: Background on Evaluation, Measurement, and Verification.

1. Emission reductions resulting from Market Transformation should be an acceptable component of a state compliance plan.

The Northwest Energy Efficiency Alliance's (NEEA) Total Regional Savings (TRS) is the best expression of market transformation energy savings and how the region tracks the market transformation programmatic energy savings from traceable and verifiable measures.³⁸ As NEEA efforts transform a market, whether for an appliance, energy efficient business practices, or building code adoption, NEEA tracks the resulting energy savings within the market.³⁹ NEEA's TRS energy savings conform to the best practices for measuring and verifying savings. EPA should allow Oregon and the other Northwest states served by NEEA to credit energy savings from NEEA's market transformation efforts in its state compliance plan.

2. Emission reductions resulting from Appliance Standards should be an acceptable component of a state compliance plan.

Oregon tracks programmatic energy savings from purchases of appliances that meet federal or more stringent state appliance efficiency standards.⁴⁰ States can induce and track the sale and installation of new appliances meeting the federal standards through programmatic measures. The actual effects of new federal efficiency appliance standards should be an allowable element in state plans. Where a state can demonstrate energy savings from efforts to advance appliance standards, Oregon recommends that state should be permitted to include energy savings from appliance standards as emission reduction measures in its compliance plan. For those state efforts done prior to federal rulemaking such action should be credited for the remaining life of the measure under the final Proposal. Finally, EPA should recognize that efforts in the Northwest and California have advanced appliance standards ahead of federal efforts. The final Clean Power Plan should clarify that these state efforts will not lower the state's baseline for calculating energy savings from a newly adopted federal appliance standard. To do otherwise would create disincentives for states to adopt state appliance efficiency standards.

3. Emission reductions resulting from enforcement of energy efficient building codes that are demonstrated with rigorous EM&V measures should be an acceptable component of a state compliance plan.

Oregon understands why EPA might assert that building code standards "have not typically been subject to similar evaluation of energy savings results,"⁴¹ but this is not the case in Oregon and the Northwest.⁴² The NWPPCC has been studying the impacts of energy efficiency policies, including utility and third party energy efficiency programs, state building energy codes, and federal appliance standards across their member states, Idaho, Montana, Washington, and Oregon, for more than three decades. For the past decade, energy efficiency programs have

³⁸ See Appendix 7: Background on NEEA and Market Transformation.

³⁹ For example, see NORTHWEST ENERGY EFFICIENCY ALLIANCE, NORTHWEST DUCTLESS HEAT PUMP INITIATIVE: MARKET PROGRESS REPORT #3, available at <http://neea.org/docs/default-source/reports/northwest-ductless-heat-pump-initiative--market-progress-evaluation-report-3.pdf?sfvrsn=4>

⁴⁰ See Appendix 8: Background on Oregon and the Northwest leadership in Appliance Standards.

⁴¹ EPA PROPOSAL, *supra* note 22, at 34921.

⁴² See Appendix 10: Background on Building Codes and Building Code Adoption and Compliance.

accounted for “more than 75 percent of the cumulative energy savings with building energy codes accounting for the remaining savings.”⁴³

EPA should credit savings from state programs that advance building code compliance and enforcement. Oregon recommends that EPA work with states on savings measurement methodology for building codes.⁴⁴ Further, Oregon recommends EPA work with the U.S. Department of Energy’s Building Energy Codes Program, which is currently developing methodologies to advance building code compliance and savings verification. In Oregon, however, robust EM&V methodology is in place to demonstrate incremental savings from building code compliance, and EPA should allow Oregon to credit resulting energy savings in its state compliance plan.

4. Emission reductions resulting from Demand Response measures should be an acceptable component of a State Compliance Plan.

EPA should give special attention to demand response and separate its treatment for emission reduction credit from energy efficiency under the broad category of demand-side measures.⁴⁵ Demand response is a category and not a single type of demand-side measure. It can be used for the development of several types of measures capable of reducing load at specific times. Demand response is capable of reducing peak demand. It can also move load from a time of higher incremental emissions to a time when emissions are lower so that overall emissions are reduced. Demand response has the effect of increasing shoulder hour energy use and is capable of supplying load drop, load balancing, and spinning reserves for ramp up or ramp down requirements. EPA should initially work with a range of Independent System Operators, Regional Transmission Operators, and the Federal Energy Regulatory Commission (FERC) to better understand the emission reduction opportunities presented by using this unique demand side measure. Where a state can demonstrate its demand response programs offset fossil-fueled balancing resource within the power pool serving the state, or where demand response shifts loads to a time of lower marginal carbon dioxide emissions, EPA should give credit for the carbon dioxide reductions from those measures.

VI. KEY CONSIDERATIONS RELATED TO TIMING AND ADMINISTRATIVE CONCERNS

The schedule anticipated in the Proposal - a final rule in June 2015 with states' plans due a year later - is ambitious and will require EPA to continue the unprecedented strong outreach and support it has provided states since issuing the proposal. The opportunity for extending this schedule as contemplated in the Proposal will likely prove important for Oregon as its legislature convenes a full session every other year. Any new legislation required for enforcement of elements in Oregon’s state plan will likely have to wait until the legislature's session in the first half of 2017.

⁴³ U.S. ENVIRONMENTAL PROTECTION AGENCY OFFICE OF AIR AND RADIATION, GHG ABATEMENT MEASURE TECHNICAL SUPPORT DOCUMENT, 5-10 (June 2014) available at <http://www2.epa.gov/sites/production/files/2014-06/documents/20140602tsd-ghg-abatement-measures.pdf>

⁴⁴ See Appendix 11: Northwest Accounting of Building Code and Appliance Standards Savings for a graph showing that State Energy Codes and Federal Standards Reduced 2010 Regional Retail Sales by Approximately 2300 aMW.

⁴⁵ See Appendix 14: Background Information regarding Demand Response measures.

A. Recommendation: EPA should develop a timeline and approach for periodic re-evaluation of the BSER.

EPA should consider developing a timeline and approach for periodically re-evaluating this regulation. Similar to the 8-year reevaluations done for New Source Performance Standards, EPA could periodically reassess the BSER to ensure it continues to reflect the range of measures that have been adequately demonstrated to reduce carbon dioxide emissions from power plants. This reevaluation might also provide a mechanism for updating the fleet of facilities subject to the regulation so that it does not gradually decline into irrelevance but instead continues to achieve significant emission reductions from fossil-fuel power plants.

B. Recommendation: EPA should clarify that states may cooperate regionally without blending state goals into a regional goal, expand options to explicitly allow for a variety of multi-state arrangements, and allow for updates to state compliance plans if later multi-state agreements emerge.

Oregon has yet to consider potential multi-state plan opportunities, but these might offer more cost-effective and greater emission reductions and thus provide an appealing option as compliance pathways are considered. EPA should clarify that states can cooperate regionally without blending state goals into a regional goal, and expand the options to explicitly allow for multi-state arrangements beyond a cap-and-trade system to encourage multi-state compliance to the Proposal. EPA should include in the final plan specific multi-state arrangements that could be pre-approved and provide model bi-state agreements for coordinating specific plan elements, such as methods to allocate compliance credit for emission reductions from energy efficiency. Providing states with off-the-shelf plan elements that are essentially pre-approved would save states valuable time developing these measures, provide greater consistency in how the Clean Power Plan is implemented across the country, and make it more likely that states are able to attain the more cost-effective emission reductions that may be achievable through multi-state coordination. Finally, EPA should allow states to enter into multi- or bi-state agreements after the compliance period has begun and make the associated updates to their compliance plans, as cost-effective opportunities for such collaboration may become available as states begin implementing the requirements of the final Clean Power Plan.

VII. CLOSING REMARKS

Oregon applauds EPA for developing the proposed Clean Power Plan in a manner that identifies the least cost methods for reducing greenhouse gas emissions in the power sector by accounting for non-emitting sources of generation and energy efficiency. Oregon sincerely hopes its recommendations are incorporated in the final Clean Power Plan so that its state plan can reasonably and correctly account for the emission reductions achieved by Oregon investments in these areas. In particular, Oregon strongly recommends that all energy efficiency and renewable generation should be credited to the state that pays for these measures.

Oregon DEQ, in cooperation with ODOE and the Oregon PUC, look forward to working with EPA as this proposal is finalized over the next year and as the Oregon state compliance plan is developed.

I understand there has already been significant communication between Oregon agencies and staff at EPA, and we may provide supplemental comments prior to the December 1 deadline, but

please do not hesitate to contact me directly to follow-up on any of the comments contained in this letter.



Dick Pedersen, Director
Oregon Department of Environmental Quality

10-16-2014
Date

Cc:
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