



November 26, 2007

Mr. Michael Grainey, Director
Oregon Department of Energy
625 Marion St. NE
Salem, OR 97301-3737

Dear Director Grainey:

The Oregon Business Association (OBA) appreciates the opportunity to provide comments to you on the rules for SB 838 implementation. The OBA is one of Oregon's leading voices for business, focusing on ensuring Oregon's long-term economic competitiveness. The OBA promotes public policies that benefit all business sectors and all regions of the state. Our association supported a renewable portfolio standard (RPS) in our legislative agenda and strongly advocated for passage of SB 838 in the 2007 session. We believe this legislation will benefit Oregon by providing diversity and stability to energy prices while reducing global warming pollution.

The OBA would like to comment on the issue of the timing for qualification of Renewable Energy Credits (RECs) for compliance with the RPS. The OBA disagrees with the draft rules (330-150-0030) that do not recognize the use of RECs prior to January 1, 2008. We believe this interpretation is inconsistent with the intent of the Legislature. In the adoption of Section 3 of the bill, the Legislature chose a date that rewards the early adopters of renewable energy while also encouraging new investments that would further diversify Oregon's energy portfolio. To be consistent, **OBA urges the Department to allow the use of unretired RECs produced by qualifying facilities after January 1, 1995 to count toward Oregon RPS compliance.** We believe that Section 3 (1) clearly instructs that the energy produced by qualifying facilities may be used to comply with the RPS requirements from the time it was produced.

It not only makes sense that the electricity produced by a qualifying facility should count towards RPS compliance from the time it was actually produced, it is also a more facial interpretation of the bill itself. While Section 14 directs the Department to establish a system for tracking RECs, it **does not** disqualify the RECs produced by facilities in service after January 1, 1995 from being "banked" for future compliance. The draft rule effectively would ignore all RECs with a certification date between January 1, 1995 and January 1, 2008. There is no support in Section 14 or anywhere else in SB 838 or its legislative history that would support such a determination.

As Oregon moves forward toward implementation of SB 838, we think an important principle is at stake. **We do not want to punish those businesses that are early adopters of clean energy (or other carbon reduction policies).** Companies throughout Oregon are taking the lead in making significant investments to reduce carbon. It is critical that as companies take the risk to be good citizens, they do so knowing that they can get credit for their actions once legislation is passed. As an early example of climate related legislation, SB 838 will be watched closely. Those companies that bought or produced RECs early should be shown that they can get as much credit as can those companies that wait. We do not want to send that message to companies that early action will hurt them down the road.

Renewable energy standards and carbon reduction legislation are likely to have a significant impact on our Oregon economy. As we move forward with additional policies that seek to meet global warming goals, OBA will continue to advocate an approach that seeks to balance the needs of our economy with the need to meet scientific recommendations to reduce carbon.

Thank you for your attention

Sincerely:

Lisa Adatto
Environment and Economic Development Director
Oregon Business Association