Clean Fuels Program 2017 Rulemaking

Advisory Committee Meeting #3

Summary

Oregon Clean Fuels Program
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DEQ is a leader in restoring, maintaining and enhancing the quality of Oregon's air, land and water.

Day One
Jan. 26, 2017
Portland State Office Building
800 NE Oregon
Portland, OR 97232

Committee Members in Attendance:
David Rocker, Oregon Fuels Association
Mark Gram, Oregon Fuels Association, Jubitz
Beth Vargas Duncan, Oregon Refuse and Recycling Association
Jeanette Shaw, Drive Oregon
Peter Weisberg, The Climate Trust
Jason Barbose, Union of Concerned Scientists
Danelle Romain, Oregon Fuels Association
Lindsay Fitzgerald, REG
Mark Goetz, Citizens' Utility Board
Miles Heller, Tesoro
Tuba Avcisert, PacifiCorp
Annie Stuart, Coleman Oil
Brandon Price, Clean Energy
Jessica Spiegel, Western States Petroleum Association
Craig Campbell, AAA
Bob Russell, Oregon Trucking Association
Jana Gastellum, Oregon Environmental Council
Nick Economides, Chevron
Micah Berry, Chevron
Brendan McCarthy, PGE
Connor Nix, Shell
Marie Dodds, AAA

Committee Members on Phone:
Jessica Hoffmann, RPMG
Dave Van't Hoff, Climate Solutions
Graham Noyes, Low Carbon Fuels Coalition
Virgil Welch, Low Carbon Fuels Coalition
Ian Hill, SeQuential Biodiesel

Members of the Public on the Phone:
Chris Blyly, Growth Energy
Marla Harris, Phillips 66
Shelby Neal, National Biodiesel Board
Ryan Lamberg, National Biodiesel Board
Mary Solecki, E2
Ralph Poole, Campo & Poole
Mark Bunch, BP

DEQ and Other Agency Staff and Contractors in Attendance:
Cory-Ann Wind, Oregon Clean Fuels Program
Bill Peters, Oregon Clean Fuels Program
Paul Garrahan, Oregon Department of Justice
Jeff Rosenfeld, ICF (Consultant to DEQ for this rulemaking)
Colin McConnaha, DEQ Climate Change Policy Advisor
David Collier, DEQ Air Quality Planning Manager

Summary of Input

Agenda Item A: Final 2017 Fuel Supply Forecast
Jeff Rosenfeld, ICF

Questions and Comments:

- Discussion on ICF's use of vehicle registration/sales data from Auto Alliance rather than the DMV registration data.
- Discussion of the forecast's volumes of biodiesel and renewable diesel, especially given comments on renewable diesel given in prior advisory committee meeting. While renewable diesel may be out there in the world, it is aggressive to assume that up to 5% of Oregon's diesel supply may come from renewable diesel next year absent large fleets switching to 100% renewable diesel.
- Renewable diesel imports from overseas are highly sensitive to federal policy on the Blender's tax credit.
- Questions about the current amount of renewable diesel being used in Oregon.
- One stakeholder noted that California is using more renewable diesel than biodiesel this year, and that growth in renewable diesel use in Oregon should not be discounted. Others responded that part of that was due to several large California fleets switching over to 100% renewable diesel.
- DEQ said it would add more explanatory text to the forecast to discuss its assumptions and intent for the way the analysis was conducted.

Agenda Item B: Draft Updated 2014 Scenarios

Agenda Item C: Assumptions for New Illustrative Scenarios
Jeff Rosenfeld, ICF

- Stakeholders and DEQ staff discussed the methodology for this report and the one that will be produced under Item C. The current approach that DEQ asked ICF to take for the modeling was to determine two scenarios where the total number of credits and deficits under the program equaled each other over the ten year period at the least cost. This approach has resulted in the model showing significant early over-compliance being available at a relatively cheap cost, which covers under-compliance in the program's later years.
- In response to this discussion, several stakeholders argued that DEQ should aim for a modeling exercise that either limits the total amount of banking or otherwise shows a more "sustainable" program in terms of yearly credit generation more closely tracking deficit generation. That modeling exercise should be closer to what DEQ thinks will happen in terms of future fuel supply and demand.
- One participant suggested pushing the modeling exercise out an extra year, with 2026 remaining at a 10% target.

- Questions about the amount of growth in electricity credits in the latter years of the program, and why the state thinks so many electric vehicles will be used in state. Jeff Rosenfeld responded that the model assumes compliance with the state's Zero-Emissions Vehicles program.

Agenda Item D: Cost Containment
Cory-Ann Wind and Bill Peters

Item D-1: Market Monitoring
<u>Questions and Comments:</u>

- California's rules on requesting contracts and other documents underlying credit transfers may not fully protect confidential business information. It is important that Oregon take steps to make sure such information is protected.
- One stakeholder argued DEQ laying out the steps by which it would invalidate credits may make large purchases less inclined to buy credits from smaller companies with worse credit, as they will be seen as riskier.
- Another suggested that DEQ refrain from laying out how it would invalidate credits until it adopts verification provisions for credits similar to what California is currently working on.

Discussion of WSPA proposal - Jessica Speigel & Micah Berry
The Western States Petroleum Association and its members presented a two-tiered proposal for cost containment, which were also submitted in comments for the last meeting. The first tier would be a short-term market volatility mechanism which would establish two triggers for market volatility where the program's carbon-intensity reduction standard would be rolled back to the prior year if those triggers are hit. The second tier was for a credit clearance market at $200/t, with some details that differed from California's.

- There was a discussion over the role and intent of the "Broker" entities as defined in the regulation, and if the definition should be tightened up or changed. This was in response to concerns being raised over the WSPA's proposal including a limit on banking for those entities.
- Stakeholders discussed the triggers for the first tier of the proposal. Concerns were raised that the percentage change thresholds floated by WSPA (25% rise in one month, 40% rise over two months) were too low and would lead to the mechanism triggering in response to normal market movements.
- It was suggested DEQ staff do an analysis of data from the California program to determine how many times the proposed triggers would have been hit in the California LCFS credit market.
- Some stakeholders suggested that the short-term mechanism would better protect consumers since the agency would intervene at the time of a price spike.
- WSPA asked for suggestions on alternative conditions for the volatility trigger, and said that the conditions in the proposal were difficult to decide on, given than a 25% price move means a different thing at lower credit prices than higher credit prices. The aim of the proposal is to help develop something better.
- There were questions if the short-term triggers would stall the development of the market and create more uncertainty for low-carbon fuel producers or importers. This could possibly cause them to delay or cancel plans to expand production capacity or retail infrastructure.

Item D-2: Cost Containment
Cory-Ann Wind and Bill Peters

- Does DEQ need to publish the amount that each buyer in the credit clearance market needs to buy? Isn't it enough to publish the names? Could the aggregated amount of credits that need to be bought be posted?

Discussion of OFA proposal - David Rocker
The Oregon Fuels Association discussed its proposal that DEQ (1) raise the threshold to be considered a large importer and (2) prevent deficit-generating obligation for gasoline and diesel from being passed to entities below the rack in Oregon.

- OFA said they would come back and submit a specific number for the proposed raising of the small importer threshold.
- Some stakeholders suggested that the second issue is better dealt with between the two counterparties to the transaction.
- Question about what the effect of the proposal should be, and if it should apply to entities that may mainly pick up fuel from the rack but also do further blending below the rack.

Day Two
Jan. 27, 2017
Portland State Office Building
800 NE Oregon
Portland, OR 97232

<u>Committee Members in Attendance:</u>
Miles Heller, Tesoro
Annie Stuart, Coleman Oil
Jeanette Shaw, Drive Oregon
Jeff Allen, Drive Oregon
Danelle Romain, Oregon Fuels Association
Peter Weisberg, The Climate Trust
Jana Gastellum, Oregon Environmental Council
Lester Spitler, TriMet
Micah Berry, Chevron
Jason Barbose, Union of Concerned Scientists
Jessica Spiegel, Western States Petroleum Association
David Rocker, Oregon Fuels Association
Ian Hill, SeQuential Biofuels
Brendan McCarthy, Portland General Electric
Meredith Connolly, Climate Solutions
Tuba Avcisert, PacifiCorp
Mary Wiencke, PacifiCorp
Bob Jenks, Citizens' Utility Board

<u>Committee Members on the Phone:</u>
Graham Noyes, Low Carbon Fuels Coalition

<u>Members of the Public on the Phone:</u>

Jeff Nelson, Springfield Utility District
Calpine

DEQ and Other Agency Staff and Contractors in Attendance:
Cory-Ann Wind, Oregon Clean Fuels Program
Bill Peters, Oregon Clean Fuels Program
Jeff Rosenfeld, ICF (Consultant to DEQ for this rulemaking)
Colin McConnaha, DEQ Climate Change Policy Advisor
David Collier, DEQ Air Quality Planning Manager
Julie Peacock, Oregon Public Utilities Commission
Jason Eisdorfer, Oregon Public Utilities Commission
Dave Nordberg, Oregon DEQ – Zero Emission Vehicle Program
Rick Wallace, Oregon Department of Energy

Summary of Input

Agenda Item E: Final Electrification Report
Jeff Rosenfeld, ICF

- In addition to clarifying questions around the report, there was a discussion of how EERs work within the Clean Fuels Program, and the policy call California made on modifying the credit calculation for fixed guideway mass transit rather than putting electricity into the Low-Carbon Fuel Standard's baselines.
- Some stakeholders reiterated opposition to allowing credit generation from applications that were in existence at the start of the program.

Agenda Item F: Electricity Issues
Cory-Ann Wind and Bill Peters

- The CFP's current requirements that solar/renewable energy be stored or contemporaneously generated may be overly stringent. Why not allow net-metering?
- For setting a longer-term average for the carbon-intensity of electricity, it may be more appropriate to use a 5-year average instead of a 3-year, based on analysis the utilities did for the Clean Power Plan.
- Questions and discussion on the existing policy decision of allowing small utilities to apply for their own carbon-intensity score and the suitability of creating a default Bonneville Power Administration (BPA) score for full requirements customer utilities of BPA. Reasons given include that the electric power system is a regional system, and the amount of hydroelectric generation is relatively fixed from year to year depending on the region's hydrological cycle and other constraints.
- Others advocated for allowing the option for those utilities to get their own carbon intensity score to remain, and to value areas where the utilities are using cleaner power.
- For the discussion of allowing specific chargers to get lower carbon-intensity scores based on on-site or nearby renewable power, there were questions about the use of green tariffs or RECs. DEQ staff said their policy thus far has not been to recognize RECs and try to avoid any possibilities of creating double-claims.
- A discussion of the program's current "broker" role and how it is intended to function as an aggregator for smaller entities. Questions and advocacy for allowing aggregators to generate credits for residential EV charging if they have good data about the amounts charged, and if the residential customer has designated them to generate on their behalf.

- General agreement that allowing transit districts or their designees to generate credits for their use of alternative clean fuels is appropriate.
- Discussion around who should generate credits for forklifts if it is allowed, and if the agency should allow the aggregator model there.
- Public comment on if the state can allow entities other than electric utilities to generate credits on the theory that utilities retain all environmental attributes associated with electric power service and their customers only get the electric service.
- Discussion around allowing alternative entities to the utilities to generate credits on behalf of residential EV charging, including charging network operators that sell home chargers and have the charging data and also a "public interest aggregator" model. Questions around how few customers actually tell their utilities they have purchased an electric vehicle and installed a home charger, and what the split is between smart and dumb chargers that are currently being installed. Questions around if vehicle manufacturers have the locational data for charging in addition to just the overall charging data.
- Discussion around the need to get those credits into the system, and especially for smaller utilities that may not have the sophistication or staff to participate in the program.
- Questions around the large utilities' decision to not opt-into the program so far, and if that is prudent.
- Questions around how revenue from credit sales would be used under the "public interest aggregator" model, and if the structure from The Climate Trust / Oregon power plant CO2 standard could be adopted. Should DEQ proscribe specific projects in order to be eligible? Require annual reports on how the revenue is spent?
- Questions around where the jurisdictional lines lay on this issue between DEQ and the Oregon Public Utilities Commission.
- Discussion of if it would be appropriate to allow retroactive credit generation from residential EV charging for 2016-2017 given that the rules for who can generate the credits may change and this could be seen as similar to the retroactive generation of RECs during the period when the Western Renewable Energy Generation Information System was not yet online.

Comments due Friday, Feb. 10, 2017.

Next meeting scheduled: Mar. 3, 2017 at the Portland State Office Building, 800 NE Oregon St., Portland, OR 97232