

Clean Fuels Program Electricity 2021 Rulemaking

Meeting Summary Advisory Committee Meeting #5

Nov. 19, 2020 1 p.m.
Web-based meeting



State of Oregon
Department of
Environmental
Quality

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water.*

Time	Topic
1 p.m.	Welcome, introductions, agenda review
1:15 p.m.	Walk through draft rules
3:45 p.m.	Opportunity for public comment
4 p.m.	Adjourn meeting

Meeting Introduction

The meeting began with a summary of comments from PacifiCorp and PGE which had been submitted the morning of the RAC meeting. The comments discuss the incremental credits from the renewable electricity portion of the rules.

Carbon Intensity of Electricity/ Renewable Electricity

Regarding power purchase agreements (PPA) being eligible to apply for a CI, is this separate from using a REC?

That would be with the bundled renewable power would be used for non-residential applications.

Are there geographic restrictions location of projects supported by PPAs?

The charger would have to be in Oregon.

How is DEQ thinking for the PPA eligibility, who would be first in line for those credits: the entity purchasing power or who would that be? Do these mechanisms play out differently?

The intent behind this portion of the proposal is for the credits to go to an entity that is already registered as a credit generator. The registered credit generator would be able to generate credits with the carbon intensity from the PPA. They would have all the same provisions as the renewable electricity products are required to have.

Are there generator in-service date restrictions associated with projects supported through PPAs? Do PPAs have to meet the same eligibility rules as RECs?

The PPA would have the broad eligibility rules as RECs have. They would still have the in service date requirement.

A challenge here is that the geographic limitation is different than their current Blue Sky program (program through PacifiCorp). If they are able to use Blue Sky RECs, they would have to bifurcate among the Blue Sky RECs on what could be used for Blue Sky and CFP. What is the rationale is for the differences here and also why these requirements would be different than the state RPS parameters? Commenter is concerned about the geographic eligibility, mostly.

The rationale behind not mirroring the RPS requirements consisted of several reasons. Some of the RECs (i.e., thermal RECs in RPS) would not be applicable to MWh of electricity. Green-E was seen as a better alternative because this is a carbon program and DEQ needs to have the electricity being used maintain the claim that the carbon intensity is 0 or whatever CI is assigned to it in the Tier 2 application process, DEQ felt that Green-E would do a better job of that than the RPS. DEQ received many comments around wanting to see benefit to Oregon, as well.

Commenter does not understand why DEQ would not link up with a current utility program's requirements, i.e., Blue Sky, which is a Green-E certified program and does achieve benefits in Oregon. At a minimum, thinks DEQ would want to align the geographic restrictions with utility green programs that are already in place.

Our proposal is that for the utility renewable energy products, the entity needs to have enough qualified RECs to cover the transportation related claims under the program. Not every REC needs to meet these specifications under CFP but enough qualifying RECs to cover the total claimed MWh for transportation uses. DEQ requests that if utilities have better public information about the RECs and where they are located, DEQ can review these requirements and the existing sources and see how they match up.

Can you explain the benefit of adding the Pac-East boundary area into the rule?

The PacifiCorp electrical system is operated from both geographic areas as one single system. The emitting resources in Pac-East are included in the statewide mix.

About the 2015 in service dates, sees 71,569 MWh that came before 2015 and there are quite a few of biogas digesters without access to natural gas pipelines that are going to have generators older than 2015. Commenter wonders if we can carve out some of these to include them in the CFP.

Statewide mix takes into account all energy being delivered into state and that would include older equipment. We are trying to reach for additional renewable energy outside of older existing sources. DEQ hopes this will incent additional renewables.

Regarding the PPA, existing renewable generators will also have similar issues with the market.

DEQ asked for further written comment on this topic. Please include discussion of the ongoing fuel and labor costs associated with these generators.

One distinction for DEQ to recognize, while some green source programs are Green-E certified not all of the individual RECs are Green-E certified. DEQ should be careful about how the rules are written because the rules are appearing to specify that the individual RECs be Green-E certified. Also, would like to underline continuing recommendation that DEQ avoid specialized requirements as are currently proposed for the RECs here.

In the draft rules, DEQ's view of utility green power products and PPAs is that if products result in substantially similar environmental outcomes to the sources renewable energy required for unbundled RECs, not all underlying RECs would be required to be individually certified, DEQ would take the overall certification. DEQ will work to clarify the rule in those areas.

Echoing previous comments on specialized requirements. They encourage DEQ to look at WREGIS wide and WECC wide geographies for inclusion. Also, encouraged DEQ to look at biomass or any tier 2, there are other sources that are in similar situation as biogas or dairies on PPAs.

In relation to voluntary RECs as discussed earlier, is DEQ saying that all of the voluntary RECs will qualify to lower the CI or that only some of them would?

What DEQ would review to see if the product could qualify for a carbon intensity of 0 or the requested carbon intensity would be if a substantial amount of total RECs meet the requirements or are substantially similar to the requirements to cover the transportation related use of the products. If only 10,000 MWh of 200,000 MWh of the renewable electricity in that product are going to electric vehicles, then DEQ would only look at 10,000 MWh of that product.

Would the geographic restrictions apply to the 10,000 MWh of RECs that are being reviewed for usage?

Yes, that is the current proposal. DEQ would like comment on that proposal.

Can DEQ elaborate to value added for Green-E certification since thinks all of these requirements are required to be tracked in REGIS?

The value add is that the certification process for DEQ is to achieve the goal that claims associated with that carbon intensity of 0 in order to assign that to electricity being used in Oregon to generate credits. The goal with utilizing Green-E would be that they provide that assurance in their existing program. Also hoping that the use of a program that was already in use in the market would cut down on administrative burden to CFP program.

Doesn't Green-E require a commercial online date of 2001 or is that a fifteen year rolling window?

Yes, this would require an excess of the current Green-E standard. Green-E would certify, then DEQ will review the reports and the balancing authority to make sure they are correct. Green-E will not be creating a separate version of their product for this requirement.

Will DEQ address or monitor issues related to double counting? Worried that a REC retired for OR would be sold in CA, will we track and monitor for that?

When adding provisions like this, DEQ monitors the effectiveness of those provisions and ensure we are not effecting the environmental integrity of the program. DEQ will continue to track and monitor for these issues, as we do for the program currently.

Important to reiterate that these apply not just to residential incremental credits but to any a participant participating in CFP marketplace. We can further the goals of the program better if we can allow more companies to participate by making compliance with the program easy to understand and accomplish.

No “behind the meter” requirement for PPA?

That is true. If there is a PPA with an electric service provider, the renewable electricity would not need to be behind the same meter of the chargers but would need to show that they are buying renewable power through documentation and need to maintain that qualification.

Why does hydrogen fall under a tier 2 pathway?

Hydrogen as a transportation fuel has to go through the same pathway application process as the hydrogen going directly into vehicles and tier 2 pathway is used for those applications.

Under implementation of third party verification (3PV) that we are working on (2022 pathway holders will be subject to 3PV), would we require these electricity related pathway holders be required to go through 3PV?

Currently, the electricity pathway applications aren't required to undergo 3PV, but pathway holders are subject to 3PV for their annual reports starting in 2022. DEQ is considering whether a minimum threshold should be established for this.

How will DEQ think about what substantially similar environmental outcomes would be? Is that applying the same kind of REC standards from the previous section?

DEQ is intending by “substantially similar environmental outcome” is that there may be some minor variances that do not need Green E certification and if they have a substantially similar process that lead to similar outcomes that would potentially qualify as similar environmental outcomes.

Early in the renewable electricity section it mentions that “the existing proposal includes that DEQ plans to remove the specific utility CIs from the statewide mix if they have opted out”? Did not see that in the draft rules and does DEQ not need to include that in the rules to more accurately account for the carbon intensity? Was that in original rules?

DEQ is still working on some of the draft rules but the intent is to remove the utility specific mix from the statewide mix. It may need to be added into the rule text, still reviewing that portion of the rules.

Incremental Credit Provisions

Are quarterly report submittal deadline (90 days) enough time for qualifying RECs to be purchased and retired? This is only for non-residential charging.

RAC member wants to follow up on this after talking to their WREGIS expert because there are very specific timelines for RECs. Believes there's a three month lag between generation and credit generation and do not know if that would be enough time.

Suggestion for the requirement to be on a rolling basis or rolling window basis. Then just retire the REC with the quarterly report and that the rolling requirement could be broad enough if proposed a two year window. Basically, either retiring that quarter or reaching back up to two years and then that would allow enough time. Retirement eligibility would be based on the vintage of the REC, so if reporting on Q3 could reach back and use REC from before Q3.

There is a difference between non-residential participants that are submitting quarterly reports that would want to have the retirement of those RECs in that same frequency as opposed to the residential credits that we are proposing to move to a semi-annual basis. DEQ wants to ensure that if we are getting a REC retirement report from WREGIS submitted with quarterly report in order to ensure we can verify that the claim of a CI of zero is valid.

Other than the electric utilities and the aggregator, are other entities (private or public) eligible to generate incremental credits?

Yes, those getting electrical charging credits could do this, as well. Public charging would be eligible, as well. Would not be a separate credit issuance, would be based on CI of the fuel pathway code.

Incremental Aggregator

Do we know how many incremental credits this would involve?

DEQ has some rough estimates but not with them at meeting. Use the CFP scenario tool that is posted under RAC #2 on the CFPE 2021 Rulemaking web page. The number for incremental aggregator depends on what utilities opt-in. Incremental credits will all be generated based off of the difference between base credit generation and the carbon intensity of 0.

Would proposed aggregator take role of aggregating those credits that were generated by utilities that have opted in to receiving specific utility mix CIs or would that stay with the utility that has opted in?

Under the draft proposal, the utility would generate the incremental credits.

Thanks for work to apply this to everyone and certify that these GHG reductions are real. Thinks that there has been a lot of empirical charging data generated by electric vehicle manufacturers and there are a lot of on board systems that are collecting this data. DEQ should consider including that data because this will help DEQ more accurately quantify the emissions reductions that are attributed both to incremental and base credits and help agency provide assurances as to validity of those reductions.

The draft rules laid out eligibility for claiming incremental credits for electric utilities and an incremental aggregator and that those would be appropriate because both can act on behalf of their communities and does not believe it would be appropriate to include other entities given that they may not be able to act on behalf of those residents. Right now, there is differential access to the benefits of the CFP because of how credits are claimed unique to each utility service territory. The statewide approach would more equitably distribute the benefits of the program. In the prioritization of who could lay claim to those credits there is a strong argument for that to be the statewide aggregator to act on behalf of those residents. If DEQ does not take that path of a statewide incremental aggregator, additional direction in the rule to ensure that vulnerable populations and impacted communities further benefit from this pathway will be needed. DEQ should outline what that looks like, maybe some additional oversight, etc.

DEQ should think about the categories for inclusion should be sufficiently broad enough to include types of vehicles that would apply.

The statewide aggregator model would be most equitable and meeting aims of executive order. Is interested in more detail about the role in which an automaker could play in the advisory committee for the incremental aggregator.

DEQ has as a portion of the advisory committee a category to include market interests and experts in electric transport and that was the intent of that section to include folks commenter brought up.

In the draft rules it is proposed that the utilities earning incremental credits will need to notify DEQ ahead of time that they were planning that the RECs are going to be retired on the incremental credits and prior to receiving those credits would need to demonstrate that those RECs were retired. Where would this notification come from for the Incremental Aggregator? Where would the funds come from up front to purchase those RECs? Assuming they would need to follow the same standard.

The Incremental Aggregator would need to have RECs that they could retire and reimburse that from the credit sales. This would be something DEQ would discuss with the applicants.

So a FSE owner can designate another party, who is already participating in the CFP, to be the credit generator on their behalf and file all the reports?

Yes, if an entity has an aggregator, the aggregator would be able to generate incremental credits, as well.

If owner of the charging equipment does not generate incremental credits then the Incremental Aggregator could. How does that work with a fleet operator that is not positioned to generate credits but wants to work toward that? Would they be able to doing that when they were ready or would the backstop aggregator who had stepped up to do it be the only one that could do it?

The entity that wanted to begin to generate those credits would use one of the fuel pathway codes that indicated a PPA or a REC retirement had moved the CI to 0 to report that charging. This would then lower the amount of MWh that the statewide incremental aggregator would have available to them to retire RECs on behalf of that charging to generate incremental credits. A notification requirement may be needed to catch that this was beginning to happen, to let the incremental aggregator know that this would be happening.

Equity advisory committee and thinking them being able to weigh in on a majority of the residential credit funds being generated, there should be a weighted responsibility that an equity advisory committee would have regardless as to who eventually becomes the incremental credit generator to ensure projects are vetted by that committee that equity communities are benefitting in a responsible way.

Submitted comments from PGE/PacifiCorp discuss setting aside a portion of money for underserved communities. Can you clarify how see that working with the role of the incremental aggregator?

They following how it was proposed in original language of an Incremental Aggregator having an equity advisory committee; making sure and highlight that this committee would exist and work with DEQ and the Incremental Aggregator.

If DEQ appoints or convenes this committee, would need to help resource the groups in the committee and DEQ would need to provide that oversight. That money should come from the Incremental Aggregator's pot of money unless DEQ has a fund set aside for this support.

DEQ and the committee will need to talk to communities to find out what their needs are. The equity advisory committee could help with that and tailor the projects and how they would work. Really want that as an overlay because we need the input from the equity advisory committee and their expertise.

EER-adjusted CI applications

Are these for light duty vehicles? Normally the electricity provided to these is done through electric utilities. How would we implement these for private chargers and not through utility?

The new EER value would be tied to the applicant, most likely through a fuel pathway application. Credits would be based on EER that was applied for in the fuel pathway application.

Commenter thinks this will allow innovation to happen more quickly and likes the flexibility between who can generate credits. The 30 day public comment period is good.

New EERs

There is an RFP to establish EERs for airport ground service equipment and DEQ is waiting for the results of that study before we put them into rules with other new EERs.

What does this look like as far as timing if the airport ground service equipment has to be added in a new rulemaking?

For the EER adjust CI application process, we would not have to wait for rule. If we do wait for rule, second half of 2022 would be the next rule making and rules would be implemented sometime after that.

DEQ is also continuing to work on e-trikes. Not ready yet but hoping to have data soon.

Advanced Crediting

DEQ has been doing some additional outreach right now and working on this portion of rules to release them. Adding comments from discussion.

Previously the draft rule had four/five years, what is the latest version?

Payback period is now proposed to be 9 years and the maximum of crediting for the vehicle is six years.

DEQ should clarify how long the loan can apply and put limits on those types of credits. Believes there is an issue with us wanting to ensure that credits being generated are “real credits.” Concerned with how a future credit can be considered a “real” credit.

DEQ views these credits as real credits because those credits will be generated and are being issued in advance by the entity and paid back into the program. DEQ wants to get these vehicles on the road. This is seen as a loan and if they don't occur, the applicant must purchase credits to cover what they were advanced. There are no default provisions in the rule so that the system will remain whole and protect the environmental integrity of the program.

As far as who is eligible for these advanced credits, they support the current draft rules in who they allow to generate them. Julie Witcover from UC Davis had submitted comments stating that DEQ could provide a formula and protocol for these entities to follow to streamline process for estimating amount of credits.

DEQ's goal is to provide as much detail and default calculators, if possible, that will help entities to determine the credits they could ask for under advance crediting.

Commenter is happy to see the extended consideration, sees as a major opportunity to support the accelerated timeline of transportation electrification. There are many examples of private fleet operators are themselves private but contracts with the state/county/etc. and would encourage to consider those since they are serving a public good.

DEQ is discussing how better to include this in the proper way in the rules.

Encourage DEQ to make opportunity available to as many light duty vehicles in regards to advanced crediting with as few barriers as possible without affecting integrity of program. Want to ensure that the advanced credits are going where there is a price differential and there may be other ways to get at that on the light duty side.

DEQ is asking for written comments on price differential mentioned in the comment above.

The issue here is less about public vs private and more about risk. Instead of focusing on public versus private maybe focus on the risk involved.

What is being considered for the annual cap for the advanced credits?

DEQ is still in initial thinking around this question. Closest to this provision would be California's capacity crediting provision which places a limit of 5% of annual deficit generation that were most recently generated in the previous quarter. DEQ is still trying to determine what makes sense here and what would set good guard rails for this provision and would welcome comments here.

What is currently envisioned for the application process? I.e., first come first serve, rolling application timeline, etc.? Would DEQ focus on certain sectors of public from year to another? Worries there will be a rush to get application in because there is a small pool of credits.

In draft rule, we say we will prioritize vehicles that will be polluting in areas of the state that have a higher air pollution burden or equity considerations or climate adaptation considerations. DEQ has not decided how to prioritize and need to consider as we determine a cap to this provision. Would hold at least one application window a year or may hold multiple rounds but this would be based on what happens with first application process and managing workload.

Suggests checking with members to see about procurement strategy of the folks we are asking for applications.

Is DEQ considering adding those and would there be additional guidelines or requirements?

Yes, we are looking at expanding eligible entities, guidelines, etc. Reviewing input comments and thinking about how to include non-profits applying, DC Fast Chargers, etc. can be included in the draft rule. Any more specific comments about this would be appreciated.

Is there a restriction on how the proceeds from these advanced credits can be spent? Also, will it publicly be announced how many credits are advanced?

No, there is not a restriction on how proceeds can be spent. DEQ will publish list of applicants applying and estimate of advanced credits that might be given. The credits would be added into quarterly data summaries because they are not given until the vehicles are in use.

In regards to advanced crediting, did they mishear that the 5% of the deficits was for the previous quarter and not on the previous year?

We would likely use annual not quarterly in Oregon.

Miscellaneous Provisions

Consider that one report could satisfy both DEQ and PUC requirements for reporting of residential credit proceeds.

January 31 would work for PGE for one report.

PacifiCorp will need to check in internally especially with the accounting folks to see if the date would work.

Think that more than one account in the system would be helpful, most helpful would be residential account and then the charging equipment in a separate account would help from a simplified tracking basis and improve reporting process.

DEQ would need to have a conversation off line about more than one account.

Penalty of not being able to participate if did not get a report in, is this forever or only for the current year?

DEQ is still writing this but would want to allow entity to collect credits again if submits late report and getting reports in in a timely manner.

General Questions

How “final” are the draft rules?

The draft rules are being put out for fiscal analysis while the RAC is working on the rules and submitting comments. DEQ still has internal and DOJ review prior to formally proposing them. Comments taken during public comment period before the rules go to EQC. There is still a fair amount of change that can occur on these draft rules.

Next Steps – Fiscal and Economic Impact Analysis

As far as the fiscal impacts, what does DEQ consider?

DEQ will be trying to determine if there will be costs associated with changes. Fiscal impacts can cover: program, administrative, costs passed on to consumers, costs to companies, can also be

revenue that would be generated by the rules. DEQ will consider negative and positive impacts, fiscally.

Commenter states that advanced crediting is essentially enabling a free loan to public agencies and they are unsure of legality of that and if that has been considered.

Roster of all Zoom participants

First Name	Last Name	Affiliation
Annabel	Drayton	Policy Associate, NW Energy Coalition
Andrew	Dick	Electrify America
Ashley P.	Beaty	BTR Energy
Becca	Teigen	SRECTrade Inc
Ben	Conte	Exergy Energy
Bill	Peters	Oregon DEQ
Bob	Jenks	Oregon CUB
Catherine	Gray	Eugene Water and Electric Board
Cory-Ann	Wind	Oregon DEQ
Christina	Chen	Ramboll
Colin	McConnaha	Oregon DEQ
Corbin	Diaz	
Danelle	Romain	Partner, Oregon PUD Association & Oregon Fuels Association
David	Breen	Port of Portland
David	Fujimoto	
Elise	Miller	ACT Commodities
Eric	Shierman	Public Utilities Commission
Erick	Karlen	Greenlots
Eva	DeCesaro	Senior Product Manager, PacifiCorp
Evan	Neyland	ChargePoint
Evan	Roseburg	SRECTrade
Greg	Alderson	PGE
Greg	Martin	League of Women Voters, OR
Hong	Jin	Geosyntec Consultants
Ian	Hill	SeQuential
Ira	Dassa	Airlines for America
Jack	Barrow	BTR Energy
James	Brotherton	
Jamie	Hall	GM
Jana	Gastellum	Deputy Director, Oregon Environmental Council
Jane	Stackhouse	OLCV, MCAT

First Name	Last Name	Affiliation
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Jessica	Spiegel	Western States Petroleum Association
Jessica	Zahnow	PacifiCorp
Jim	Lemon	BTR Energy
Jocelyn	Blake	AOC
John	Thornton	CleanFuture
Joshua	Proudfoot	Principal, Good Company
Julie	Brooks	Orange EV
Julie	Chapman	LWVOR
Julie	Witcover	UC Davis
Kei	Reitz	
Kent	Hartwig	REG
Kiara	Winans	Oregon DEQ
Lehka	Sridhar	WattTime
Marc	Ventura	Phillips 66
Marissa	Bach	Shell
Mark	Dihle	
Mary	Brassel	ODOT
Mary	Wiencke	PacifiCorp
Maya	Kelty	3 Degrees
Michael	Graham	Director of Policy & Communications, Columbia Willamette Clean Cities Coalition
Michael	Lemon	BTR
Mike	Freese	Partner, Oregon PUD Association & Oregon Fuels Association
Mike	Goetz	Oregon CUB
Rhett	Lawrence	Forth
Rob	Larkin	AECOM
Robin	Wang	
Sean	Rimes	Exergy
Tyler	Ernst	
Vee	Paykar	Climate Solutions

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