



Agenda Item C – Implementing the Forecasted Fuel Supply Deferral

Meeting #1 - Wednesday, Nov. 2, 2016

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Introduction

The purpose of this paper is to describe the process by which the forecasted fuel supply deferral is to be implemented. While the methodology to do the forecast will be discussed in a separate agenda item, this is intended to summarize the procedures that are currently adopted in the rule. As the methodology gets finalized, the committee will have an opportunity to modify these procedures if necessary.

Forecasted Deferral Basics

DEQ will annually monitor Oregon's fuel supply by looking ahead to the following year and assessing whether there is an adequate supply of lower carbon fuels to meet that year's standards.

If the forecast suggests there will be an inadequate supply of lower carbon fuels in the next year, DEQ would evaluate the significance of the shortage based on its impact to the regulated parties' ability to meet its compliance obligations. The regulation currently defines an inadequate supply as being more than 5% of the anticipated compliance obligations for that year. This would be both in terms of the volume of lower carbon fuels and the credit generation potential from those fuels based on their carbon intensity.

In some cases, the impact of a shortage could warrant a temporary deferral of compliance requirements until the fuel supply problem is resolved. If the supply problem is more enduring, DEQ might consider a longer-term re-evaluation of the overall program's compliance schedule.

The forecasted deferral is required by HB 2186. The forecasted deferral would be issued for the entire class of fuels, such as gasoline and its substitutes or diesel and its substitutes, or both, as opposed to granting a deferral to an individual regulated party or an individual fuel. Granting the deferral to the entire class of fuels instead of individual regulated parties is to make sure that the deferral does not create an uneven playing field in the fuel markets that it regulates.

DEQ proposes a four-step process to: 1) conduct a forecast, 2) evaluate if a deferral is warranted, 3) craft the deferral and 4) implement the deferral.

1) Conduct a Forecast

DEQ has awarded a contract to ICF to provide analysis supporting this rulemaking. One of the tasks is to develop the methodology to be used in the forecasted fuel supply deferral. DEQ will be seeking input from the advisory committee on this methodology for forecasting the availability of low-carbon fuels, the credits they can generate, and the bank of credits going into the forecasted year. ICF will conduct the forecast for 2017

based on the methodology. ICF will also construct a tool that incorporates the methodology and allows DEQ to conduct the subsequent forecasts.

2) Determine Whether to Issue a Forecasted Fuel Supply Deferral

If DEQ forecasts a shortfall in clean fuel credits, and the shortfall is greater than 5 percent of the credits needed to comply, DEQ shall determine whether a forecasted deferral is needed by considering the following:

- a) Timing of fuel availability;
- b) Timing, duration and magnitude of the estimated shortfall; and
- c) Any other information DEQ may need in the analysis.

3) Issuing a Forecasted Fuel Supply Deferral

If DEQ decides to issue a forecasted fuel supply deferral, the deferral must include:

- a) A period that the deferral covers;
- b) The standard that is being deferred;
- c) A recommendation to either defer the obligation to comply with the standard for one or both classes of fuels administratively or propose changes to the program through a temporary or permanent rulemaking.

4) Implementing a Forecasted Fuel Supply Deferral

If changes to the program are involved, then DEQ must conduct a public rulemaking process and seek adoption of the proposed rules by the Environmental Quality Commission in order to implement the deferral. In order to facilitate timely implementation of a deferral, this rulemaking process may involve a temporary action followed by a permanent action.

Comments

The agency is issuing this paper to provide background for the discussion on the methodology proposed by ICF at the meeting. This discussion will be captured in the meeting summary and posted on the committee webpage. The agency also invites written comments on the process currently in regulation for implementing the deferral. DEQ will accept written comments one week after the posting in order to develop materials for the next meeting. Comments received after one week will still be considered, but may not be reflected in the next meeting's materials. Please e-mail any written comments to: OregonCleanFuels@deq.state.or.us.