

# Oregon Clean Fuels Program

## Item B: Amendments Discussion Draft

# Overview

- The redline discussion draft is being issued solely for the purposes of discussion and comment, it is not the official rulemaking proposal and should not be used for any other purpose. It does not change any regulated party's obligations under the promulgated rule.
- This presentation is arranged by topic and covers changes reflected in the discussion draft.
- There are some planned changes not reflected in this draft, such as the shift in natural gas reporting to therms, new EERs, and the new Temporary FPC and ILUC tables.

# Where we are in the process

- Next advisory committee meeting on June 9th will be for the program's fiscal analysis.
- The fiscal for this rulemaking only reflects the effect of the amendments, not of the entire program.
- DEQ may issue the new EERs and Temporary Fuel Pathway Code table separately for comment.

# Definitions

- Definitions being added for public transit, prohibition on obligation being passed below the rack, and the Credit Clearance Market.

# Electricity

- Retains the ability of smaller utilities to request a specific CI score, gives them the ability to opt out in future years
- Moves to a 5-year rolling average CI score for the statewide mix and any individual utility who have opted in for their own CI score
- CIs will be calculated based on GHG Reporting Program data

# Electricity

NEW OAR 340-253-0470

## Carbon Intensity of Electricity

(1) Starting in 2018, both the statewide mix carbon-intensity score and any utility-specific scores will be based on a rolling five-year average for the applicable electricity-related emissions based on information submitted to DEQ's Greenhouse Gas Reporting Program.

(a) Statewide mix. No later than December 31st, DEQ will post the updated electricity mix CI score for the next year.

(b) Utility-specific scores. Utilities able to register a specific carbon-intensity score may do so by indicating that they wish to have a utility-specific score generated for them on their application form to register for the program, or in writing to DEQ. DEQ will generate utility-specific carbon-intensity scores for those utilities through the data they report to DEQ's Greenhouse Gas Reporting Program. A utility that does not wish to continue receiving a utility-specific score may request prior to the start of a new year to not have a score generated for them for that new year.

# Electricity: Public Transit

- New definitions for public transit, transit agency, and the vehicles in question.
- EERs for Light Rail, Streetcar, Tram, and Electric Transit Buses will be added to Table 8. DEQ is still working with the transit agencies on those EERs.
- Public Transit Agencies

# Transfers below the rack

- Proposed prohibition on transferring obligation below the rack except for fuels being exported
- Several new definitions:
  - Bulk Facility
  - Position Holder
  - Inventory Position
  - Rack
  - Terminal
  - Above the Rack
  - Below the Rack



# Transfers below the rack

- “Above the rack” means sales of 10,000 gallons or more of transportation fuel at pipeline origin points, pipeline batches in transit, and at terminal tanks before the transportation fuel has been loaded into trucks or other means of non-bulk transfer.
- “Below the rack” means sales of clear or blended gasoline or diesel fuel at terminals or other racks where the transportation fuel is being sold to an end user or to an entity which is directly transporting that product to an end user or retail facility.

# Transfers below the rack

(4) Recipient is a large importer of finished fuels. If a regulated party transfers clear or blended gasoline or diesel to a large importer of finished fuels below the rack, the transferor remains the regulated party who:

(A) Must comply with the registration, recordkeeping and reporting requirements under OAR 340-253-0500, 340-253-0600, 340-253-0620, 340-253-0630 and 340-253-0650 for the fuel; and

(B) Is responsible for compliance with the clean fuel standard for such fuel under OAR 340-253-0100(6).

(C) The transferor must provide the recipient a product transfer document by the time of transfer. The product transfer document must prominently indicate that the transferor remains the regulated party.

(D) The recipient is not the regulated party.

(E) This provision does not apply if the fuel is meant for export.

# Market Monitoring

- New Authority to Suspend, Revoke, Modify OAR 340-253-0670
- Prohibited credit transfers added to OAR 340-253-1050
- Additional recordkeeping and inspection requirements in OAR 340-253-0600
- Clarification of the responsibility for replacing invalid credits

# Market Monitoring

(9) Illegitimate credits.

(a) A regulated party, credit generator ~~violates these rules if~~ aggregator must report accurately when it submits information into the CFP Online System ~~indicating. If inaccurate information is submitted~~ that causes one or more credits ~~have been to be~~ generated when such an assertion is inconsistent with the requirements of OAR 340-253-1000 through 340-253-1020, or a party otherwise causes credits to be generated in violation of the rules of this division, those credits are illegitimate. If DEQ determines that one or more credits ~~a credit generator claims~~ that a party to have generated are illegitimate credits, then the ~~credit generator:~~ party that generated the illegitimate credits:

~~(A)~~ (A) If the party still has the illegitimate credits in their account, is subject to those credits being canceled by DEQ;

(B) If the party has retired the credits for its own compliance or transferred them to another party, it must provide an approved credit to replace each credit that was not properly generated, if available; and

~~(B)~~ (C) Is also subject to enforcement for the violation.

(b) A regulated party, credit generator or ~~broker that~~ aggregator that has acquired one or more illegitimate credits ~~is subject to:~~

(A) Is subject to having those credits canceled if still in their account, or must replace them if used for compliance, when the initial generator of the illegitimate credits has not replaced them and the agency determines that that initial generator is unlikely to be able to do so;

(B) May be subject to enforcement unless DEQ determines: that the party they were acquired from engaged in false, fraudulent, or deceptive trading practices.

# Credit Clearance Market

- Maximum prices of \$250 from 2018-2024 (covering the 2017-23 compliance years) and \$200 in 2025 and thereafter (for the 2024+ compliance years).
- The amount of deficits rolled-over under the credit clearance market provision will increase at 5% per year.
- Small Deficit carry-over decreased to 5% of the annual compliance obligation

# Emergency Action

- New name

# Electricity: Backstop Aggregator

- Currently in the discussion draft the application process is one time, but

# Co-Processing at petroleum refineries

- Co-processing biogenic feedstocks at a petroleum refinery will be classified as a Tier 2 CI application.
- Additional requirements around a method for the quantification and attribution of biogenic inputs to the products being output at the refinery.
- Requirement for the quarterly reporting of the quantity of biogenic feedstocks being processed and any deviations in energy or hydrogen use at the refinery attributable to the running of biogenic feedstocks.



# Temporary Fuel Pathway Codes

- Provision is intended to ensure that all regulated parties and credit generators have a backup option for reporting fuels.
- Table 10 will be added with those temporary fuel pathway codes. DEQ is currently working on that table and will be issued for comment at a later date.
- Current ILUC values will be listed in a new table 9.