

Clean Fuels Program 2017 Rulemaking

Advisory Committee Meeting #7 Summary

June 9, 2017
Portland State Office Building, Room 1D
800 NE Oregon St.
Portland, OR 97232

Committee Members in Attendance:

Mark Reeve, Chair
Danelle Romain, Oregon Fuels Association
Tuba Avcisert, PacifiCorp
Annie Stuart, Coleman Oil
Jessica Spiegel, Western States Petroleum Association
Jana Gastellum, Oregon Environmental Council
Elysia Treanor, PGE
Bob Jenks, CUB
Jeremy Martin, UCS
Micah Berry, Chevron
Angus Duncan, Natural Resources Defense Council
Jeanette Shaw, Forth

Committee Members on Phone:

Graham Noyes, Low Carbon Fuels Coalition
Lindsay Fitzgerald, REG
Brandon Price, Clean Energy
Ian Hill, SeQuential
Jessica Hoffmann, RPMG
Connor Nix, Shell

Members of the Public in Attendance:

Fei Chi, Tesla
Dan Jarman, Tesla/Crosswater Strategies
Jason Heuser, EWEB

Members of the Public on the Phone:

Pam Brady, BP
Mark Ventura, Phillips 66
Elizabeth Hepp, Valero

DEQ and Other Agency Staff and Contractors in Attendance:

Cory-Ann Wind, Oregon Clean Fuels Program
Bill Peters, Oregon Clean Fuels Program
David Collier, DEQ Air Quality Planning Manager



State of Oregon
Department of
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Quality

Oregon Clean Fuels Program

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Oregon's air, land and
water.*

Summary of Input

General Business

- Today's discussion is to address the requirement to seek input on the fiscal and economic impact of the proposed rulemaking...not the entire program, but just the changes that are currently proposed.
- Follow the format of the draft fiscal statement supported by the summary of the proposed rule changes and the draft proposed rules.
- Comments due in 1 week, by Friday, June 16th or as soon as possible.
- Public notice period scheduled to begin on Friday, July 14th.
- Public hearing scheduled for Wednesday, August 16th.

Cost Containment

- Removal of the monthly fuel price deferral with the addition of the credit clearance market
- Still taking comments on \$250 tiered vs. \$200 flat for the cap price
- There might be unintended consequences on the \$250 cap being higher than California that might affect the flow of fuels between the states, especially in a couple of years
- 2-phased approach to CCM. Importers of finished fuels first then importers of blendstocks. Pro rata based on available credits for each phase.
- Penalizing the carried over deficits doesn't help anyone. What if they sought to purchase credits in good faith and couldn't? The point of the penalty is to incent regulated parties to settle those deficits sooner than later.
- On-going discussion about the appropriate level for a small deficit. Seeking comment on two options: 5% with no penalty or 10% with a 5% penalty
- Every cost to a regulated party is also a benefit to a clean fuel provider. There should be no net cost to the consumer.
- Without CCM, credit prices could have gone higher than \$200-\$250; now they shouldn't. Prior BCG report said credit prices would get to \$1,000.
- The draft fiscal shouldn't also calculated what the cost per gallon of fuel would be at the proposed \$250 tiered approach and the \$200 flat cap approach. Will add this to the notice of proposed rulemaking. It should have also considered potential credit prices without the cap.
- Generally, there is agreement that the addition of a cost containment mechanism lowers the cost of compliance and the impact to fuel consumers.
- There is a fiscal impact to DEQ to implement the program but minimal impact to the regulated parties and participants in the market.
- Small businesses are not adversely impacted.

Electricity Provisions

- 5-year rolling average for CI calculations. What about the closure of Boardman? Do we want to have a way to get that out of the mix sooner than later?
- Can a utility designate multiple aggregators? Yes.
- With DEQ's selection of a backstop aggregator, is there a relationship with them and the PUC? Should there be considering that the credits should have originally gone to a utility?
- DEQ should establish a committee to help in the selection process for the backstop aggregator.

- Allow for some changes in the 2018 rulemaking to incorporate learning from pilot projects – fleets, workplace, multi-family housing, etc.
- Should DEQ calculate the residential EV credits annually or semi-annually?
- Residential EV credits generated for 2016 and 2017. If a utility opts in for 2018, then they get the retroactive credits too. Follow the same hierarchy.
- Was there no appetite for a statewide aggregator? DEQ deferring to the PUC process with the IOUs first to see what happens. Can adjust in the 2018 rulemaking if needed.
- There is a positive fiscal impact to transit agencies and might be for utilities if they choose to participate. If they don't, then there will be a positive fiscal impact to the aggregator they designate or do a backstop aggregator chosen by DEQ.
- Some small businesses might benefit from the program but none will be adversely impacted by the proposed rules.

Market Monitoring

- If some credits were invalidated, the regulated parties should have an extended amount of time to acquire replacements and if they were carried over, they should not incur a penalty.
- DEQ still looking for definition of “market disruption” or “undue burden” in the context of triggering an emergency deferral.
- Can there be a “market disruption” if credit prices are still under the CCM cap? What would it look like?
- Maybe this language doesn't need to be settled now. We can probably wait for a future rulemaking when/if it becomes a significant issue.
- The formal program reviews should be done in 2019 and 2022.
- Probably not a significant fiscal impact from these new proposals. Need to check with compliance arm of regulated parties who do most of the recordkeeping-related work.

Miscellaneous Regulatory Improvements

- Clarification regarding information related to exporting. It's important for the program, from an accounting standpoint, to be whole...meaning that if a credit/deficit were generated upon import, that they should also be backed out upon export.
- Renewable hydrocarbon diesel proposed to be a regulated fuel instead of a clean fuel so that it will generate deficits or credits based on the CI.
- Clarify the proper use of the CI lookup tables – temporary CIs for fuels without a CI vs. default lookup table values for some fuels. Really want producers to obtain a facility-specific CI sooner than later but want to provide the flexibility just in case one doesn't exist.
- Perhaps take out the UOP attached to renewable diesel?
- New table for ILUC values. Should it be in gCO₂e/MJ or in tons per amount of feedstock?
- Changes to energy density based on GREET model updates.
- Changes to the standards based on the changes to the energy densities.
- Restricting the transfer of obligation below the rack to an importer of finished fuels. There is no net change in the fiscal impact to the fuel consumer, just a shifting from the party below the rack to the one above.
- What about other fuels not currently covered? Perhaps in the next rulemaking.

- In general, there are small fiscal impacts to the proposed rules. None impact small businesses disproportionately to others.

Next Steps:

- We want specific comments on:
 - proposed rule language
 - whether the proposed rules would have a fiscal impact and if so, the extent of the impact
 - whether the proposed rules would have a significant fiscal impact on small businesses and if so, factors that DEQ should consider to reduce that impact
- Comments due by June 16th or as soon as possible.