



Agenda Item C – Rule Improvements

Meeting #4 – March 3, 2017

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Since DEQ is modifying the Clean Fuels Program rules for additional cost containment measures and electricity credit generation provisions, it will also take this opportunity to incorporate some housekeeping rule changes. The following is a list of potential changes to the rule, mostly derived from stakeholder feedback and DEQ's experience with implementing the program over the past year.

Renewable Hydrocarbon Diesel

2016 marked the emergence of the renewable hydrocarbon diesel (RHD) market in Oregon. Many fleets throughout Oregon are testing RHD as a partial or full substitute to petroleum diesel. In addition, many of these fleets belong to public agencies that have climate action plans and are looking lower their carbon footprint.

DEQ works closely with the producers of RHD primarily to approve fuel pathways but also to provide broader technical support to other fuel providers and fuel users regarding the carbon intensity of RHD. In this context, DEQ has identified a loophole in its current regulations that define RHD as an opt-in fuel rather than a regulated fuel. In other words, the producer of RHD will likely register its fuel pathways that generate credits in the CFP, but is not required to do so in the case of pathways that would generate deficits. Since RHD can be made with various virgin and waste-based oils, the choice of feedstock can have significant impact on its carbon intensity, with the potential of some generating credits and other deficits. The result of this loophole is that there is a gap of information about the carbon intensity of RHD across all of its feedstocks.

DEQ is aware that several million gallons of RHD were used in Oregon last year. Fuel providers and users have asked DEQ to provide carbon intensity information about all of the RHD feedstock pathways that are being imported into Oregon and that is something that DEQ does not have access to at this point, due to the loophole in the rule.

To close this loophole, DEQ is considering moving RHD from being an opt-in fuel to a regulated fuel. That would mean that RHD made from all feedstocks would have to receive a carbon intensity value from DEQ, whether it is one that is established by CARB and approved for use in Oregon or one directly approved by DEQ. DEQ would also add a temporary Fuel Pathway Code (FPC) for RHD to a new look-up table for temporary Fuel Pathway Codes, which would be set equal to the score for clear diesel at 101.65 gCO₂e/MJ. This temporary FPC would be available for use only when the fuel does not have an approved carbon-intensity or the producer of the fuel is unknown and cannot easily be discovered to the importer of the fuel into Oregon. DEQ would also populate this table with other temporary Fuel Pathway Codes for other fuel types, similar to the corresponding table in the California rules.

Energy Density

Energy densities are used to calculate deficits and credits in the CFP. DEQ proposes to add the following energy densities to OAR 340-253-8050:

Renewable hydrocarbon diesel: 129.65 megajoules (MJ) per gallon

Pure methane: 1.02 MJ per cubic foot

Undenatured anhydrous ethanol: 80.53 MJ per gallon

It also plans to correct the following energy densities as follows to match GREET 2.0:

Fuel	Current (MJ/unit)	Corrected (MJ/unit)
Gasoline blendstock	116.09	122.48
Diesel fuel	129.49	134.48
Compressed natural gas	0.98	1.04
Clear biodiesel	119.55	126.13
Liquefied natural gas	76.84	78.83
Liquefied petroleum gas (propane)	96.5	89.63

If adopted, these energy densities will be used to calculate deficits and credits beginning January 1, 2018.

Default Carbon Intensity for Imported B20

DEQ has become aware that B20 is being imported into Oregon where the importer is unaware of the provenance of the biodiesel component of the fuel. Similarly to the treatment of imported B5, DEQ is proposing to establish a default B20 pathway based on 80% clear diesel and 20% Midwest soybean biodiesel, 92.25 gCO₂e/MJ.

Changes to Definitions

Based on feedback around the “broker” role in our current regulation, DEQ is proposing to eliminate the definition of “broker” and add in a definition for a “credit aggregator”. DEQ proposes that:

“Credit aggregator” means a person who is not a regulated party or a credit generator and who voluntarily registers to participate in the clean fuels program, described in OAR 340-253-0100(3), to facilitate credit generation on behalf of a credit generator to trade credits with regulated parties, credit generators and other credit aggregators.

“Credit aggregator designation form” means a DEQ-approved document that specifies that a regulated party or a credit generator has designated a credit aggregator to act on its behalf.

The Oregon Department of Agriculture recently updated their definitions for biodiesel and biodiesel blends so DEQ proposes to follow suit:

"Biodiesel" means a motor vehicle fuel consisting of mono-alkyl esters of long chain fatty acids derived from vegetable oils, animal fats, or other nonpetroleum resources, not including palm oil, designated as B100 and complying with ASTM D6751. Biodiesel produced in or imported into Oregon for use as a blend stock shall comply with B100 biodiesel requirements including ASTM International D6751 and the Certificate of Analysis.

"Biodiesel blend" means a fuel comprised of a blend biodiesel with petroleum-based diesel fuel, designated BXX, where XX represents the volume percentage of biodiesel fuel in the blend."

In the last rulemaking, DEQ changed the definition of "Renewable diesel" to "Renewable hydrocarbon diesel", but the change in terminology wasn't carried throughout the entire regulation. DEQ proposes to fix this in this rulemaking.

Natural Gas Reporting

Currently, OAR 340-253-0630(3)(a) requires that any reporter that generated credits by importing or producing CNG and L-CNG must report in standard cubic feet (SCF). Based on working with natural gas reporting parties in the past year, DEQ is proposing to change it to therms, which would be consistent with their utility bills.

Initial 2016 Inventories

In September 2016, DEQ issued guidance¹ to clarify its intent that regulated parties and credit generators should report their initial bulk inventories of fuel at the start of 2016. The purpose of this guidance was to ensure that the Clean Fuels Program properly accounts for all fuels used in Oregon in 2016. Reporters were directed to include this information in their Q1 2016 report.

Comments

The agency invites comments addressing all aspects of this paper. This discussion will be captured in the meeting summary and posted on the committee webpage. DEQ will accept written comments for two weeks after the meeting in order to develop materials for the next meeting. Comments received after two weeks 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.

¹ <http://www.deq.state.or.us/aq/cleanFuel/docs/InitialInventoryGuide.pdf>