



Agenda Item D-2 – Cost Containment

Meeting #3 – January 26-27, 2017

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Summary of comments from December 17, 2016 meeting

- General support for credit clearance market.
- General support for a credit price cap of \$200 to align with the California program.
- General statement that if a credit window-type mechanism were employed (such as an alternative compliance mechanism), that DEQ strive to reduce GHGs to offset the creation of “paper” credits.

Summary of additional written comments

- Joint comments from SeQuential, the Oregon Environmental Council, The Climate Trust, the National Biodiesel Board, and Drive Oregon stated five principles for the evaluation of cost containment mechanisms: That they should build confidence for investors, that they should align with other regional programs, that they should not disadvantage Oregon relative to others, that they should not stifle innovation by placing too low of a price cap, and that if alternative compliance is allowed that it must result in real transportation sector greenhouse gas reductions in Oregon.
- The Oregon Fuels Association (OFA) asked that DEQ staff consider raising the current 500,000 gallon per year threshold for finished fuel importers to be classified as large importers, but did not propose what would be an appropriate new threshold. OFA also proposed that DEQ modify the regulation to prevent the deficits for blended gasoline and diesel fuels in-state from being passed on below the rack.
- Coleman Oil commented that: 1) the credit clearance market is a “good start” for a cost containment mechanism; 2) that the 5% interest charge for unfilled deficits should be eliminated; and 3) that responsibility for the validity of credits in the credit clearance market should rest with the seller. Coleman also agreed with the idea of giving priority status to finished fuel importers in the credit clearance market.
- The Western States Petroleum Association (WSPA) proposed a two-tiered cost containment mechanism. The first tier would be a “short-term spike relief” mechanism that would have the agency roll the Clean Fuels Program’s targets back to the prior year’s target if: 1) monthly credit prices rise by 25% in one month, or 40% over two months; or 2) if the credit price hits \$200/t. The second tier would be a Credit Clearance Market with two exceptions: 1) credit buyers would not be responsible for replacing bad credits; and 2) that “brokers (traders/aggregators) that are not regulated parties or credit generators” would not be allowed to bank credits and be forced to sell any credits they have into the market each year. WSPA also wants to retain the small deficit roll-over provision.

Credit Clearance Market

Based on the comments it has received and its internal analysis, DEQ is moving forward with developing a proposal for a credit clearance market mechanism. There are some key questions that need to be answered:

Maximum credit price

DEQ would like input on how to design the maximum credit price. The following are two potential options:

1. A maximum credit price set at a single fixed value through 2025.
2. A maximum credit price set at a higher value earlier in the program and then lower over time. This would allow for a stronger market signal when the potential price effect on consumers would be significantly lower. For example, DEQ could set the maximum credit price at \$300 for 2017-2019 (while the program required 0.5% through 1.5% reductions), \$250 for 2020-2022 (2.5% through 5%), and \$200 from 2023-2025 (6.5% through 10%).

In both cases, DEQ would apply an annual inflation adjustment to the maximum credit price value in the Credit Clearance Market based on the last 12 months of the Not Seasonally Adjusted Consumer Price Index US City Average, All Items series¹. The inflation adjustment would be applied just before the announcement of the call for credits to be pledged into the market on April 1st.

Timeline

DEQ would like input on the timeline it should use for the Credit Clearance Market. The proposed timeline is as follows:

1. The first Monday in April – DEQ issues a call for credits to be pledged into the Credit Clearance Market.
2. April 30th – Regulated parties and credit generators must make their pledge to DEQ of a specified quantity of credits into the market by this date. Regulated parties pledging credits into the market must be fully in compliance with their own obligations.
3. April 30th – Annual Reports are due, and any regulated entities that have unfilled deficits and will need the Credit Clearance Market will need to tell DEQ the amount they are short of credits for compliance.
4. May 15th – DEQ will announce if a Credit Clearance Market is occurring, based on if any regulated parties indicate in their annual reports that they have unfilled deficits.
5. June 1st – DEQ will inform each regulated party that has unfilled deficits in its annual compliance obligation of its pro-rata share of the credits pledged into the market. Separately, it will post the following to the program's website:

¹ https://data.bls.gov/timeseries/CUUR0000SA0?output_view=pct_12mths

- a. The name of each regulated party that has unfilled deficits and the number of credits they must purchase in the Credit Clearance Market under their pro-rata share.
 - b. The name of each regulated party or credit generator that has pledged credits into the market, and the number they have agreed to sell.
6. From June 1st to July 31st – The credit clearance market is in operation, and buyers and sellers make deals as needed in order to allow regulated parties to purchase their pro-rata shares.
 7. August 31st – Regulated parties must submit their amended annual reports that account for the credits they acquired and have retired from the Credit Clearance Market. If the pro-rata share that a regulated party has purchased does not fully cover the number of deficits they have, DEQ will record the unmet deficits for that regulated party into an Accumulated Deficit account.

Calculating pro-rata share

In the previous advisory committee meeting, DEQ proposed the idea of giving priority status to importers of finished fuel in the credit clearance market. Under this methodology the importers of finished fuel would have the first opportunity to purchase credits through the credit clearance market, with remaining credits being made available to the rest of the regulated parties.

Under that scenario, the calculation for the pro-rata share of credits that must be purchased by importers of finished fuels is:

$$\left(\frac{\text{Individual Finished Fuel Supplier's deficits}}{\text{Total Finished Fuel Suppliers' deficits}} \right) \times [\text{The lesser of: (Pledged credits) or (Total Finished Fuel Suppliers' deficits)}]$$

Where deficits refers to the individual regulated party's unfilled deficits at the time of the initial annual report, and total deficits refers to the sum of all of the unfilled deficits across all of the regulated parties at the time of the initial annual report. Pledged credits refers to the total number of credits pledged to be sold into the market.

After the importers of finished fuels have purchased their credits, then the calculation for the pro-rata share of credits that must be purchased by all other regulated parties is:

$$\left(\frac{\text{Regulated Party's deficits}}{\text{Total Deficits}} \right) \times [\text{The lesser of: (Remaining pledged credits) or (Total Deficits)}]$$

Monthly Fuel Price Deferral

DEQ would like input on whether it should eliminate the existing Monthly Fuel Price Deferral when it proposes to adopt the credit clearance market. DEQ has received comments that understanding and attributing the factors behind rising fuel prices in real time is a difficult and time-consuming task. DEQ also understands that the creation of the new credit price-based cost containment mechanism is clearer, provides more certainty to market participants, and is easier for the agency to administer and analyze.

Carryback credits

DEQ would like input on a potential change to the definition of carry-back credits in OAR 340-253-1030(5). The proposed definition change would align the date by which carry-back credits can be acquired with the proposed timeline change above, from March 31st to April 30th.

Q1 quarterly progress reports

DEQ would like input on a potential change to the due date for the Q1 quarterly progress report. The CFP Online System does not have the ability to keep track of the year a credit was generated. Therefore, in order to allow for the proposed timeline for the credit clearance market, DEQ proposes to restrict submission of the Q1 reports until after May 1st. DEQ believes this change will allow regulated parties to make any credit transfers they find they may need following the reconciliation and submission of their Q4 reports.

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.