

Oregon Clean Fuels Program Expansion 2022

Summary

Reporting Workshop

Date Jan. 20, 2022, 1 p.m. – 4 p.m.

Location: Zoom Webinar



State of Oregon
Department of
Environmental
Quality

RAC Members in attendance

- Victoria Paykar, Climate Solutions
- Michael Graham, Columbia Willamette Clean Cities Coalition
- Mike Freese, Oregon Fuels Association
- Jana Jarvis, Oregon Trucking Association
- Jeremy Martin, Union of Concerned Scientists
- Matt Solak, Pacific Propane Gas Association
- Jim Verburg, WSPA
- Nick Staub, Ed Staub
- Nora Apter, Oregon Environmental Council
- Vincent Morales, RNG Coalition

DEQ staff/facilitators in attendance

- Colin McConnaha, Office of GHG Programs Manager
- Cory-Ann Wind, Clean Fuels Program Manager
- Bill Peters, CFP Markets Analyst
- Kiara Winans, CFP Pathways Specialist
- Stephanie Summers, CFP Reporting Specialist
- Jamie Damon, Senior Facilitator
- Gillian Garber-Yonts, Facilitation Team

List of handouts and presentation notes

- Agenda
- Presentation
- Reporting Workshop Memo

Time	Topic
12:45 p.m.	Webinar Setup and Login
1 p.m.	Welcome and Introductions
1:10 p.m.	Review Agenda
1:20 p.m.	Presentation and Discussion: Reporting
3:20 p.m.	Wrap-Up
3:30 p.m.	Public Comments
3:45 p.m.	Next Steps
4 p.m.	Adjourn meeting

Oregon Clean Fuels Program

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Rulemaking email:
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Program web page:
<https://www.oregon.gov/deq/ghgp/cfp/Pages/default.aspx>

Agency web page:
www.oregon.gov/DEQ

DEQ is a leader in restoring, maintaining and enhancing the quality of Oregon's air, land and water.

Welcome and Introductions

Jamie Damon, Lead Facilitator, welcomed the RAC members and the audience to the DEQ Clean Fuels Reporting Workshop. She shared brief instructions on using the Zoom webinar platform, reviewed the meeting agenda, shared an overview of the meeting guidelines, and provided instructions to the public on sharing their comments and questions during the meeting.

Jamie asked the DEQ Clean Fuels Program Project Team to introduce themselves. She shared that the Reporting Workshop would be less formal than the RAC meetings and invited the RAC members as well as the public to provide their input during the discussion sections at the end of each agenda topic.

Cory-Ann Wind, Clean Fuels Program Manager, shared the Clean Fuels Program timeline document and reminded the attendees of where the Reporting Workshop lands on the project schedule. She shared that the workshops will consist of targeted discussions around the reporting, electricity and pathways topic areas. She reminded the attendees that materials will continue to be posted on the DEQ website.

Presentation and Discussion: Reporting

Stephanie Summers, Clean Fuels Analyst, welcomed the RAC and shared that the workshop would consist of talking through topics with a DEQ proposal, topics without a DEQ proposal, and additional simple rule changes. Stephanie clarified that the Clean Fuels Program project team will also be taking language suggestions via written comment.

Jamie Damon shared that there would be an opportunity for discussion after a brief introduction to each topic. She shared that RAC members would be called on for comments first, with an opportunity for the public to comment after.

Simplify aggregator language

Stephanie provided an overview of the proposed rule change (slide 11 of the [presentation](#)).

The attendees were invited to respond to the following three questions.

- Any questions on this topic?
- Is this change sufficiently clear?
- Are there any credit generators who should not be allowed to designate an aggregator?

The following are questions and comments received on this agenda item.

Question: Is this meant to clarify that the aggregator can act for any fuel: liquid fuel, gaseous fuel and electricity?

Response [Stephanie]: DEQ wants to clarify that any credit generator in the program can designate an aggregator.

Follow up: A credit generator on liquid fuels could designate an aggregator or a credit generator of gaseous fuels could designate an aggregator. Is that correct?

Response [Bill Peters]: Yes, the current rule already allows this so we are taking out individual mentions of it within the rule, as the individual mentions have created some confusion in the past.

Electricity credit generator hierarchy

Stephanie provided an overview of the proposed rule change as well as proposed language (slide 13-14 of the [presentation](#)). The attendees were invited to respond to the following three questions.

- Any questions on this topic?
- Is the charging equipment owner or fleet owner the right default across all of the EV categories in OAR 340-253-0330?
- Is a letter the best way to document the transfer of credit generation rights from the owner to the operator?
- What if the owner is unresponsive?
- How should this provision handle existing equipment? Should there be a grandfathering or effective date?

The following are questions and comments received on this agenda item.

Comment: The previous slide mentioned the electricity track and here we are talking about the aggregator. While an electric vehicle has an ownership title, other types of equipment, like off road vehicles, do not have titles making ownership challenging to track. The ownership versus operator issue might be problematic. I think ownership should be based on the home base of the equipment.

Comment: We're a carbon credit service provider, and I appreciate DEQ taking this initiative on defining the hierarchy. I think the most important part is to not create confusion. Vehicle ownership can also be addressed in purchase order invoices. The person that is depreciating the asset on their taxes is usually the owner. I would also like to advocate that the fleet owner be the one that gets the credits because it's the capital cost to buy the EV that is really the critical piece. Giving that incentive to the person that is choosing to purchase the equipment aligns with the adoption of more EVs. I encourage you to think about aligning the incentives with the actions you want to see.

Response [Stephanie Summers]: To clarify, what gets registered here is not the vehicles, it is the fuel supply equipment. It is the chargers and compressors that are registered in the system. DEQ may also ask for individual information on the equipment being registered as well, but it is the charging equipment that is getting registered.

Response [Bill Peters]: If the vehicle owners are the ones that know how much charging has occurred for a vehicle, is there a case where the owner has leased out equipment to an operator, but the operator is the one paying the electricity and keeping the records? Is what we are talking about here sufficient, or do we need to do something else?

Question: What is the definition of a service provider?

Response [Stephanie Summers]: We have that in the rule and can get the language for you. Found that definition was not in the rule and that we need to get that added to the rule.

Question: In the memo, you talk about a written agreement, and then down in the proposed text you're talking about a signed letter. Is that meant to be the same document? How does that relate to an aggregator designation form, or does an aggregated designation form fulfill the purpose of the written agreement or signed letter?

Response [Stephanie Summers]: I think that is a good point. Regarding the aggregator designation form, we have not had that discussion internally. We're having discussions about whether a letter is the proper way to

signify the credits being turned over to be generated by a service provider from the owner. Is there something that you all use more commonly that would be useful? Maybe one of those documents could be the aggregator designation form?

Response [Bill Peters]: I would just add that we haven't talked internally about the aggregator designation form being used when a credit generator is designated as an aggregator. The difference here is that we list both the charging equipment owner and the service provider/fleet owner as eligible credit generators. It wouldn't be that the owner of the equipment is designating the operator as an aggregator, it's that they're letting that person below them in the hierarchy generate credits and we're asking for some sort of documentation or notification that that has been discussed between the two parties.

Response [Stephanie Summers]: If the owner was aggregating the service provider, we would still want some sort of documentation, in addition to the aggregator designation form.

Question: Is a service provider an aggregator, or are they unique?

Response [Stephanie Summers]: Service providers would be different from an aggregator. They may be people who are providing service to the actual equipment. They may see the bills and know what amount of electricity is going, whereas the owner may not see that information if they have a service provider for their equipment.

Comment: Should the service provider have a designated aggregator? In that case, the written agreement between the service provider and the asset owner would simply not name the aggregator. When submitting FSE registration, there would have to be recognition that the submitter's name would not be in the written agreement. I think that's probably solvable as long as the aggregation form is already submitted.

Response [Stephanie Summers]: Are you suggesting that you could just use the contract between the service provider and the owner?

Follow up: I'm acknowledging that the proposal is sound, and I don't think there needs to be any specific treatment if there's an aggregator involved. the aggregator's name wouldn't necessarily be in the agreement between the service provider and asset owner. Let's assume that the scenario plays out, regardless of the aggregator, would that same written agreement be submitted for additional FSE that is being registered between those two parties? In other words, would that agreement need to be modified every time or would it list the FSEs? Is it a global document that identifies the relationship between the service provider and asset owner, with respect to the credits?

Response [Stephanie Summers]: We hadn't discussed that internally.

Response [Bill Peters]: There could be a situation where we have an asset owner in different parts of the state and in control of one part of the organization and an asset owner that is in charge of a portion of the equipment in a different part of the state and they designate aggregation to different companies. The documentation would need to be geographically specific but not listing each FSE. If you can submit written comments on ideas like these that would be helpful. That's definitely one of the reasons why we're doing this workshop, to think through these situations and get feedback.

Comment: We support this hierarchy and think station ownership should be first in line to claim credits. In terms of the exact documentation to execute and document the credit transfer, I think there are other ways of doing this. The stations tend to be built in a module fashion and the information required to register as a station may change over the years. Keeping in mind how this will be administered and how paperwork can

potentially proliferate this will be important. A lot of this tends to get worked out in contracts between charging providers and site host so we can follow up with additional comments on this as well.

Question: Will there be a plug-in electric vehicle charging tariff like in Minnesota?

Response [Bill Peters]: Our program doesn't regulate electricity rates. That is a good question for Oregon's Public Utility Commission.

Question: Can the owner sign over the credit generation to the utility?

Answer [Bill Peters]: Yes, they can submit an aggregator designation form to the utility.

FSE Registration Submission

Stephanie provided an overview of the proposed rule change as well as proposed language (slide 16 of the [presentation](#)). The attendees were invited to respond to the following two questions.

- Any questions on this topic?
- Are there other ideas for how to handle this issue?

The following are questions and comments received on this agenda item.

Question: What happens if you find that this doesn't alleviate the problem down the road? What is the next step?

Response [Stephanie Summers]: So far it hasn't been problematic. If we implemented this proposal and it didn't work, we would probably go back to waiting until the next quarter to actually generate credits on the FSE.

Question: Would it be impossible to register a facility after this due date?

Response [Stephanie Summers]: In practice, I have given latitude. The goal here is to try and make things clear for when people or companies need to get registration submitted. I can talk about having something that's less stringent in the rule.

Response [Cory-Ann Wind]: What we're trying to do here is set some clear expectations. We'll try to come up with a way to address that, but we are urging folks to get registration in sooner than later.

Follow up: I just want to leave the door a little bit open. If something really happened where a facility had a special case to still be able to register it would be good to have flexibility.

Comment: We support this.

Exempt fuel use documentation

Bill provided an overview of the proposed rule change as well as proposed language (slide 18 and 19 of the [presentation](#)). The attendees were invited to respond to the following three questions.

- Any questions on this topic?
- Does the by receipt or invoice method provide sufficient evidence that the fuel is being supplied to an exempt vehicle or user?
- What details should it contain to assure that the fuel is going to an exempt vehicle or user?

The following are questions and comments received on this agenda item.

Questions: Can dyed diesel be categorically exempt without the stock?

Response [Bill Peters]: No, because dyed diesel goes to vehicles that are not exempt from the rules.

Question: How is DEQ going to handle emergency situations, such as fires, where you have government entities that are fighting the fire and using various forms of equipment to do so? What about equipment that is being used, that would be exempt, and is not on road equipment? Fire departments often use bulldozers for fire lines, or other equipment that would be off road, but is not actually categorized as something that would run on a highway or fall under the CFP.

Response [Bill Peters]: We don't currently have an exemption for firefighting activities. If you have further comments, please submit them. Regarding your second question, we would need to make a determination if they are exempt. There is no catch all category for firefighting or wildfire related equipment.

Response [Cory-Ann Wind]: That is a helpful comment. We don't currently stipulate in our regulation or statute an exemption for those kinds of equipment. I think this is just a reminder for everyone that clean fuels isn't just applicable to on road fuels or on road equipment. It can be complicated where we draw the line on what is and is not covered under the regulation. However, there is no exemption for vehicles being used for firefighting currently.

Response [Jamie Damon]: It sounds like there is follow-up that needs to happen for this issue.

Change of ownership, control, or bankruptcy

Bill provided an overview of the proposed rule change as well as proposed language (slide 21 of the [presentation](#)). The attendees were invited to respond to the following two questions.

- Any questions on this topic?
- Is the draft language sufficiently clear?

The following are questions and comments received on this agenda item.

Question: There is overlap between the suppliers in this program and the suppliers in the Climate Protection Program, are the requirements similar so that one company can take care of both of them at once or are they totally separate?

Response [Bill Peters]: Most reporting is coming from entities that are also regulated by the Climate Protection Program. For the fuel suppliers that are submitting to the CPP, the data that is submitted to CFP gets rolled up into their GHG Reporting and would be used to determine their compliance obligations under the Climate Protection Program. I'll have to double check internally, but I believe that the requirements here are not dissimilar to what the Greenhouse Gas Program requires. Both programs have an interest in giving us a heads up when there is an ownership change just to make sure that we understand a transfer between the two entities.

“Production for Import” transaction types

Bill provided an overview of the proposed rule change as well as proposed language (slide 23 and 24 of the [presentation](#)). The attendees were invited to respond to the following two questions.

- Any questions on this topic?
- Any other considerations?

The following are questions and comments received on this agenda item.

Question: How does it work now? What is the issue that you are facing right now?

Response [Bill Peters]: We need to be able to confirm the gallons being imported. We don't currently have Production for Import transactions within the system, which doesn't work for the Greenhouse Gas Program. We would like to have a very clear implementation in our reporting system, which requires adding these two transactions. A lot of this is around risk mitigation for entities importing fuel so they are not responsible for issues with changes in carbon intensities in the fuel that would impact credit generation in the program.

Credit Generator fossil fuel vs renewable natural gas

Stephanie provided an overview of the proposed rule change as well as proposed language (slide 27 of the [presentation](#)). The attendees were invited to respond to the following two questions.

- Any questions on this topic?
- Is there a need to change this in the rule? Are suppliers able to determine what equipment is being serviced and register FSE if they are able to take credit for the RNG?
- Should DEQ allow the owner of the FSE to generate the credits for renewable natural gas, as well?
- What is the best way to incentivize switching from fossil to renewable natural gas?

The following are questions and comments received on this agenda item.

Comment: We feel neutral about this. We hear from our members that most renewable natural gas developers are happy to manage credits. We think that upstream RNG producers would be better at reporting.

Comment: Having the flexibility for either party would incentivize RNG utilization. Our preference would be that the Oregon program is structured in a similar way to California, where either party can generate credits. There needs to be coordination between the FSE and the RNG supplier. When the RNG supplier wants to generate LCFS credits, they could opt into the program and sign up for a CFP account. The fuel dispenser would have to communicate FSE information, RNG supplier reporting, and credit generation. We would suggest looking at the California approach. There are advantages to having the flexibility between the supplier, the fuel, and the FSC.

Comment: I would suggest that it be the station owner. The FSE could generate credits under either scenario. I think the double counting could be handled by the FSE being transferred if the fuel supplier is going to report. You have one FSE and you can only have one entity reporting on it. Either it stays with the owner, or it gets transferred to the fuel supplier.

Establishing new transaction types

Stephanie provided an overview of the proposed rule change as well as proposed language (slide 29 of the [presentation](#)). The attendees were invited to respond to the following two questions.

- Any questions on this topic?
- Should DEQ establish an administrative way to adopt new transaction types?
- Would the process in rule for DEQ to adopt new temporary or substitute pathway codes work for adding new transaction types?
- What would be the proper documentation provided by DEQ to present during the comment period?
- What would be the proper notification to affected entities?

The following are questions and comments received on this agenda item.

Comment: I am supportive of DEQ staff being able to establish new transaction types administratively to avoid being constrained to the rulemaking timeline. It's important that there is a process where people are informed beforehand with an opportunity to provide comment.

Comment: BP supports this direction as well.

Question: Is there a limit on the scope? What is the limit on the transaction types that you would adopt? Can you elaborate a little bit more on what the new transaction types that you would allow would be?

Response [Stephanie Summers]: One of the transaction types that we talked about earlier would be production for import, which specifies within and outside the bulk system so that we can capture volumes accurately for the Greenhouse Gas Reporting Program. Another type is passing obligation below the rack with the position holder sale. For the position holder sale transaction type, we are talking about adding a position holder sale with obligation, so that obligation could be passed below the rack for entities that are allowed to accept that obligation.

Comment: If you look at the provision that Stephanie was referencing, we have required at least 15 or 45 days of public comment. It would undergo some serving notice comment process but wouldn't be a full rulemaking. We are happy to take comments on how long of a period folks would like for a provision.

Response [Cory-Ann Wind]: I think it would be helpful for those of you who are in the reporting entities to tell us long it would take for you to change your systems to be able to adapt to this new transaction type. How long does it take for you to actually work with your other partners to make sure that this gets handled on both sides of a transaction? I think it's relatively easy for us to administratively adopt something like this, but implementation has a lot of moving parts we want to be sensitive to.

Follow up: The position sales below the rack affects us every quarter. When the risk is all on one company, it's really hard to get the information you need from your counter parties in a timely manner. There have been multiple times where we thought we were submitting our final report and someone made a change, saying that they exported something we sold to them, but never gave us the documentation. It would be helpful for us if we could share some of the obligation.

Response [Bill Peters]: Thank you for sharing, we know that can be tricky. On the DEQ side we're involved in three teams now. When gallons are reported as position holder sales in OFRS, in the regular version that becomes position holder emissions and then that can turn into compliance obligation to the Climate Protection Program. That position holder sale for export is excluded from that value because it is being exported and not staying in state, thus not turning into emissions in the state. We hear the issue, we're going to think about it, and if you want to file any written comments to that we'd love to read them.

Response [Stephanie Summers]: This is something that quite a few folks run into with the reconciliation that is required between business partners. I've suggested people contact the Oregon Clean Fuels inbox when you are running into reconciliation issues with business partners and we will look into it. You always want to get your submittal in on time, then we can always open that back up after the reporting period to make corrections.

Comment: We have some flash sales and didn't have any reporting in Oregon until the previous rule making that looped flash sales into the reporting requirement. I have concerns about creating that reporting burden below the rack because we're in a capacity where we don't hold inventory. We are selling at the rack, so we own fuel for a very brief amount of time. We found that the reporting becomes cumbersome and difficult

because of who we are selling to. Mom and pop shops don't know this requirement, nor do they have a compliance background.

Response [Stephanie Summers]: I appreciate your comments here they're helpful. DEQ is having internal conversations on flash sales right now.

Other simple rule updates

Stephanie provided an overview of the proposed rule change as well as proposed language (slide #31 of the [presentation](#)). The attendees were invited to respond to the following two questions.

- Any questions on these topics?

The following are questions and comments received on this agenda item.

Question: Is the year a calendar year or reporting year?

Response [Stephanie Summers]: It is a reporting year.

Question: For renewable diesel, if we import some diesel by rail car, we might load say 20,000 gallons of diesel and put in five gallons of biodiesel. We know the quantity, but it is a load quantity. When we go to unload, we lose a little. Do you want us to be conservative and use the high number for the diesel that was added? We're trying to limit the amount of diesel we report, because there's an obligation on the diesel portion. We're bringing in essentially 99.9%, but we're putting in say five gallons of diesel out of state when we bring the rail car in.

Response [Bill Peters]: We can get back to you on that, please email in that comment.

Question: My question is about the first bullet on the product transfer document for the fuel designation. How specific does the destination need to be?

Response [Stephanie Summers]: We would just need Portland. Generally, we are looking to see if it has gone out of state.

Public Comment

Jamie Damon invited the public to share any comments during the open comment portion of the workshop. Jamie reminded attendees that comments could be submitted after the meeting to CFP.2022@deq.oregon.gov. She notified the attendees that comments will be taken through February 4. Several members of the public asked for details regarding the RAC #2 meeting. Cory-Ann shared that the breakout rooms would be closed to the public, with a robust report out occurring after lunch.

Next Steps

The DEQ project team thanked the RAC members and the attendees for their attendance and the robust discussion. The meeting was adjourned.

Meeting Chat Log

Marc Ventura: Will there be another webinar with DEQ on January 26?

Gillian Garber-Yonts: Yes, that will be DEQ's second RAC meeting.

Kathy Moyd: Most of the controls aren't showing: camera, mic, participants. At least on iPad.

Alan Journet: I have no microphone or video icons- only have chat, raise hand, and cc icons.

Gillian Garber-Yonts: Hi Kathy and Alan, the attendees do not have audio or video capabilities. If you would like to comment or ask a question we ask that you use the raise hand function. You will then be given temporary audio capabilities.

Gillian Garber-Yonts: DEQ Clean Fuels Program Reporting Workshop Meeting Materials:

<https://www.oregon.gov/deq/rulemaking/Pages/cfp2022.aspx>

Kelly Hoell: Would an owner be able to designate transfer of credit generation for a specific time period and then take ownership back at a later date?

Khalid Rustom: eTRUs are registered based on the equipment not the charger

Patrick McGrath: Will there be a Plug-In Electric Vehicle (PEV) Charging Tariff like in Minnesota?

Jessica Zahnow: Question for clarification. This is Kate Hawley, Pacific Power. Can the owner sign over the credits to the utility?

Kathy Moyd: What does “below the rack” mean?

Mark Bunch: Thank You!

Jim Verburg: Thank you!

Alternative formats

DEQ can provide documents in an alternate format or in a language other than English upon request. Call DEQ at 800-452-4011 or email deqinfo@deq.state.or.us.