Highlights: Adopted Phase 2 Rules – March 2015

Background
House Bill 2186, passed by the Oregon Legislature in 2009, authorized the Oregon Environmental Quality Commission to adopt low carbon fuel standards to reduce greenhouse gas emissions from Oregon’s transportation fuels by 10 percent over a 10-year period. In 2010, DEQ convened an advisory committee to explore technical issues and policy choices for implementing HB2186, now called the Clean Fuels Program. In April 2012, Gov. Kitzhaber directed DEQ to move forward with the program in two separate phases: an information collection phase and a carbon reduction phase. In December 2012, the EQC adopted the Phase 1 rules. DEQ has been implementing Phase 1 since January 2013. In February 2014 Gov. Kitzhaber directed DEQ to draft rules for Phase 2. On Jan. 7, 2015, the EQC adopted the Phase 2 rules. The rules went into effect Feb. 1, 2015.

The Clean Fuels Standards
The clean fuel standards are the annual average carbon intensity which a regulated party must comply with, expressed in grams of carbon dioxide equivalents per megajoule of energy or gCO2e per MJ. There is a standard for gasoline and gasoline substitutes and a standard for diesel and diesel substitutes. The baseline year is 2015 and the baseline carbon intensity values represent the fuels required in 2010: 10 percent ethanol blended with gasoline and 5 percent biodiesel blended with diesel fuel. The rules require a 10 percent reduction in average carbon intensity from 2015 to 2025. Here are the standards:

<table>
<thead>
<tr>
<th>Calendar Year</th>
<th>Reduction from 2015</th>
<th>Clean Fuel Standard for Gasoline and Gasoline Substitutes</th>
<th>Clean Fuel Standard for Diesel and Diesel Substitutes</th>
</tr>
</thead>
<tbody>
<tr>
<td>2015</td>
<td>Baseline Year</td>
<td>89.31 gCO2e per MJ</td>
<td>87.09 gCO2e per MJ</td>
</tr>
<tr>
<td>2016</td>
<td>0.25 percent</td>
<td>89.08 gCO2e per MJ</td>
<td>86.87 gCO2e per MJ</td>
</tr>
<tr>
<td>2017</td>
<td>0.50 percent</td>
<td>88.86 gCO2e per MJ</td>
<td>86.65 gCO2e per MJ</td>
</tr>
<tr>
<td>2018</td>
<td>1.00 percent</td>
<td>88.41 gCO2e per MJ</td>
<td>86.22 gCO2e per MJ</td>
</tr>
<tr>
<td>2019</td>
<td>1.50 percent</td>
<td>87.97 gCO2e per MJ</td>
<td>85.78 gCO2e per MJ</td>
</tr>
<tr>
<td>2020</td>
<td>2.50 percent</td>
<td>87.08 gCO2e per MJ</td>
<td>84.91 gCO2e per MJ</td>
</tr>
<tr>
<td>2021</td>
<td>3.50 percent</td>
<td>86.18 gCO2e per MJ</td>
<td>84.04 gCO2e per MJ</td>
</tr>
<tr>
<td>2022</td>
<td>5.00 percent</td>
<td>84.84 gCO2e per MJ</td>
<td>82.73 gCO2e per MJ</td>
</tr>
<tr>
<td>2023</td>
<td>6.50 percent</td>
<td>83.50 gCO2e per MJ</td>
<td>81.43 gCO2e per MJ</td>
</tr>
<tr>
<td>2024</td>
<td>8.00 percent</td>
<td>82.16 gCO2e per MJ</td>
<td>80.12 gCO2e per MJ</td>
</tr>
<tr>
<td>2025</td>
<td>10.00 percent</td>
<td>80.36 gCO2e per MJ</td>
<td>78.38 gCO2e per MJ</td>
</tr>
</tbody>
</table>

Deficits and Credits
Deficits are generated when the carbon intensity value of a specific fuel exceeds the clean fuel standard in a given year. Credits are generated when the carbon intensity value of a specific fuel is lower than the clean fuel standard in a given year.

Participation in the program
Regulated parties • Parties that import gasoline, diesel, ethanol and biodiesel for use in Oregon are regulated parties. Parties that produce ethanol and biodiesel in Oregon are regulated parties. A regulated party must balance its credits and deficits at the end of each calendar year to meet the clean fuel standards.

- An “importer” is the person who has ownership title to transportation fuel from locations outside of Oregon at the time it is brought into the State of Oregon by any means of transport other than in the fuel tank of a motor vehicle for the purpose of propelling the motor vehicle.
  - A “large importer” imports greater than 500,000 gallons per year
  - A “small importer” imports 500,000 gallons per year or less.
- A “producer” is the person who makes the fuel in Oregon.
Credit generators - Parties that provide clean fuels - fuels whose carbon intensity values are lower than the standard for the gasoline or diesel they substitute for - are eligible to be credit generators. Credit generators are not required to participate, but can choose to voluntarily participate if they want to generate credits for fuel they provide in Oregon.

Here are the parties that are eligible to be credits generators for specific clean fuels:

- For fossil natural gas or propane, it is the owner of the fueling equipment at the facility where the fuel is dispensed for use in a motor vehicle.
- For compressed or liquefied biogas, it is the producer or importer of the fuel.
- For renewable diesel, it is the producer or importer of the fuel.
- For electricity:
  - If it is used to charge a motor vehicle in a residence, it is the electric utility, then the broker and then the owner of the electric charging equipment, in that order.
  - If it is used to charge a motor vehicle in non-residential settings, it is the owner of the electric charging equipment, then the electric utility and then the broker, in that order.
- For hydrogen, it is the owner of the fuel where it is dispensed for use into a motor vehicle.

Brokers - Parties that are not themselves a regulated party or a credit generator, but who are authorized by a regulated party or a credit generator to act on their behalf, can participate in the program to facilitate credit generation and credit trading.

Overview of the program requirements
Registration - Regulated parties, credit generators and brokers must register with DEQ before producing fuel in Oregon, importing fuel into Oregon or generating or transacting credits for fuels supplied in Oregon.

Recordkeeping (product transfer documents) - Regulated parties, credit generators and brokers must keep records for each transaction of transportation fuel imported, sold or supplied for use in Oregon.

Reporting – Regulated parties, credit generators and brokers must submit quarterly progress reports and annual compliance reports. All reporting must be done using the CFP online system.

Transfer of Obligation
For regulated fuels, it depends on whether the recipient of the fuel is a Large Importer, a Small Importer, a Producer or not an importer. If the recipient is a large importer, then the default is for the obligation to transfer to the recipient. If the recipient is a small importer, a producer or not an importer, then the default is for the obligation to remain with the transferor. The default can be overridden by written contract between the transferor and the recipient.

Pre-approved Carbon Intensity Values (Look-up Tables) - The table was expanded to mirror California’s in order to allow regulated parties to use the same fuel pathway codes and carbon intensity values in Oregon as in California. Pre-approved Oregon-specific carbon intensity values were also included for E10 and B5 (that is imported as blended finished fuels) and propane (because propane is not included in the California program). The look-up tables do not include indirect land-use change at this time.

Timeline for program implementation
Beginning Feb. 1, 2015 – Begin tracking fuel volumes using the new definition of importer.
Between Feb. 1 and June 30, 2015 - DEQ will reach out to all fuel providers to determine who meets the new definition of importer. Focus will be placed on providers of gasoline, diesel, ethanol and biodiesel. All new importers will need to complete the registration process by June 30 and all existing importers will need to modify their registration applications by June 30.
Beginning July 1, 2015 – All regulated parties should begin complying with the new PTD and transfer of obligation requirements.
Between Feb. 1 and Dec. 31, 2015 – DEQ will reach out to providers of clean fuels. Credit generators who intend to provide clean fuels in 2016 and brokers should begin the registration process. Quarterly and annual reporting continues. DEQ will update the CFP online system to track credit transactions.

2015 Oregon Legislature and the program’s sunset
On March 12, 2015, Governor Kate Brown signed SB 324. The bill removes the Dec. 31, 2015 sunset date and allows DEQ to move forward with implementing the Clean Fuels Program, as adopted by the Oregon Environmental Quality Commission on Jan. 7, 2015. DEQ’s next step is to incorporate SB 324 into rules.