State of Oregon
Department of
Environmental
Quality

Agenda Item F
Regulated and Opt-In Parties

Advisory Committee Objective:

The January 27th low carbon fuel advisory committee meeting presentation on "Regulated and Opt-in Parties" described how compressed natural gas (CNG), liquefied natural gas (LNG), biogas, and hydrogen are supplied for use as transportation fuels. The presentation covered the use of those fuels for transportation in Oregon, any known information on the existing infrastructure, and a proposed regulated or opt-in party for the fuel. The presentation also covered California's regulated parties for gasoline, diesel and biofuels. The presentation can be found on the DEQ website at http://www.deq.state.or.us/aq/committees/advcomLowCarbonFuel.htm.

At the February 24th low carbon fuel advisory committee meeting, DEQ would like input on who the regulated or opt-in entity should be for these fuels. **Electricity will be discussed at a future advisory committee meeting.**

For most fuels, DEQ is proposing a regulated or opt-in entity for discussion purposes. However, the supply chain for gasoline, diesel and biofuels is more complex, and we anticipate the majority of the time at the February meeting will be spent discussing regulated parties for gasoline, diesel, and biofuels.

Each of these questions has a companion discussion piece on the following pages.

1. Who should the regulated or opt-in party be for compressed natural gas (CNG) from fossil sources? (page 4)
2. Who should the regulated or opt-in party be for liquefied natural gas (LNG) from fossil sources? (page 5)
3. Who should the regulated or opt-in party be for biogas (CNG or LNG)? (page 5)
4. Who should the regulated or opt-in party be for hydrogen? (page 6)
5. Who should the regulated or opt-in party be for gasoline, diesel, and biofuels? (page 6)

Discussion of regulated/opt-in parties

So far, the advisory committee has discussed which fuels should be included, and whether they should be regulated or able to opt-in to the program to sell credits. But who, exactly, should report and have the compliance burden to meet the LCFS? Which entity should be able to opt-in and sell credits?

In a fuel lifecycle, there is a chain of several owners, from the fuel refiner/producer[1], the fuel distributor(s), the retail seller, to the end user. Figure 1 below is a conceptual illustration of the supply chain of gasoline.

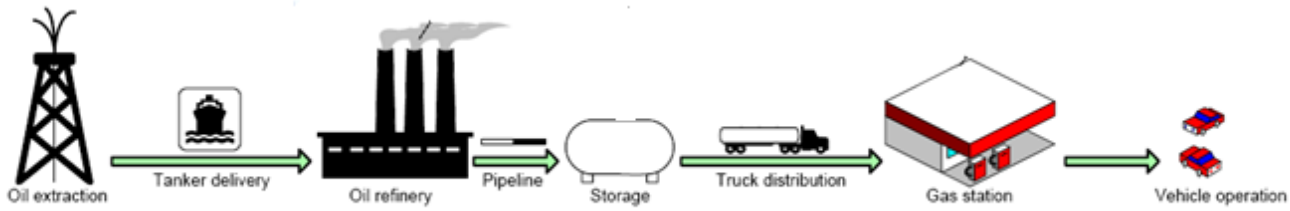

Figure 1. Supply chain of gasoline

Closer to the source of the fuel, there are fewer owners, while the further the fuel progresses down the distribution chain, the more owners there are. For example, 90% of Oregon's gasoline comes from 4 oil refineries in Washington. At the storage and distribution level, there are approximately 155 motor vehicle fuel dealers licensed in Oregon. Those distributors deliver to or sell fuel from approximately 2400 retail facilities, who in turn sell fuel to millions of vehicle and equipment owners.

Each type of fuel covered under a low carbon fuel standard is supplied and used differently. Consequently, the proposed regulated or opt-in party varies with fuel type. There are several considerations for choosing regulated or opt-in parties.

- **The regulated party should capture the use of the fuel for transportation.** Some fuels are used mainly for transportation, while others are not. For example, the bulk of gasoline is used as a transportation fuel[2], so it make sense to set the point of regulation as close to the source of the fuel as possible. However, other fuels, such as natural gas or electricity, are used mainly for other purposes, and only a small amount is used for transportation. Therefore, it makes sense to require reporting (if a party has chosen to opt-in) only when the natural gas is

[1] "Producer" means, with respect to any liquid fuel, the person who owns the liquid fuel when it is supplied from the production facility.

[2] "Transportation fuel" means any fuel used or intended for use as a motor vehicle fuel or for transportation purposes in a nonvehicular source.

compressed into CNG and used for transportation, or electricity is dispensed specifically for use as a transportation fuel.

- **DEQ is seeking the most efficient point of regulation for each type of fuel.** Ideally, the point of regulation would involve as few entities as possible who use, distribute, or sell large amounts of the fuel for transportation purposes.

- **Flexible implementation to minimize compliance cost.** Although in general, DEQ is seeking fewer regulated or opt-in entities, another consideration is that, if possible, the regulation should incorporate flexibility to minimize compliance cost as directed by HB 2186.

- **Production and use of low carbon fuels and public access to low carbon fuels.** Where appropriate, implementation should provide incentives for production and use of low carbon fuels, and for providing public access to alternative fuels, such as at a fueling station used by a fleet owner that is also open to the public.

- **Other reporting by potential regulated parties in Oregon**. Where possible, reporting should be streamlined. DEQ recognizes that this issue is complex, and streamlining might not be possible for all fuel types. Current reporting of potential regulated parties for gasoline, diesel and biofuels include:

    - DEQ will require greenhouse gas reporting. This rule is currently under development.

    - DEQ requires gasoline bulk plants and terminals to annually report the throughput of gasoline and distillate products as part of their air quality permit.

    - ODOT requires fuel reporting for tax purposes.

        - For gasoline, ODOT requires reporting from 155 licensed "Motor Vehicle Fuel Dealers"

        - For diesel, which ODOT defines as a "use" fuel[3] ODOT requires reporting from:

            - Approximately 750 licensed "Use Fuel Sellers"

            - Approximately 1320 licensed "Use Fuel Users"

[3] **What types of fuel are considered "use" fuel?**
Common examples include low sulfur diesel, *ultra* low sulfur diesel, compressed natural gas (CNG), and propane. Use fuel also includes premium diesel, biodiesel, and any fuel other than gasoline used to propel a motor vehicle on public roads. (ORS 319.520(4))

Proposed Regulated or Opt-In Parties

Sections 1-4 below discuss proposals for defining regulated and opt-in parties in Oregon for **CNG, LNG, biogas, and hydrogen**, based on the considerations described above. Should these be the regulated or opt-in parties? Or are there other entities that make sense in Oregon? Section 5 discusses regulated and opt-in parties in Oregon for **gasoline, diesel, and biofuels**. The distribution supply chain for gasoline, diesel, and biofuels in Oregon is complex. Below, DEQ has described who California has defined as the regulated parties for these fuels. Please bring suggestions for who the regulated parties for gasoline, diesel and biofuels should be in Oregon for discussion at the February 24th meeting.

Opt-in parties for **electricity** will be discussed at a future advisory committee meeting.

1. Who should the regulated or opt-in party be for Compressed Natural Gas (CNG) from fossil sources?

Proposed: The regulated party or opt-in party would be the utility company, energy service provider, or other entity that owns the fuel dispensing equipment in Oregon for transportation use.

Rationale: Most of the natural gas (over 99%) sold in Oregon is not used for transportation. This choice of a regulated/opt-in party captures only the transportation use of natural gas. This also provides some flexibility because the regulated or opt-in party could either be a natural gas company who owns the CNG fuel dispensing equipment, or it could be a large fleet owner that decided to put in a fueling station. This could also provide an incentive for the owner of the fuel dispensing equipment to provide public access to CNG fuel, because the owner of the fuel dispensing equipment could also count credits earned for CNG sold to the public for transportation purposes.

Potential regulated/opt-in parties in Oregon:

- Three natural gas companies (own the majority of Oregon's 11 fueling stations)
- CNG fleet owners who own fuel dispensing equipment (several CNG fleet owners in OR own the fuel dispensing equipment, for example, Rogue Valley Transit, Port of Portland, and Jackson County)
- There are a limited number of home fueling units

Transfer of regulated party/opt-in status: If another entity purchases the fuel, and both parties involved agree, the credits or compliance obligation can transfer to the purchaser of the fuel. For example, if Company A owns a CNG fueling station that Company B also uses, Company A is initially the regulated/opt-in party for all fuel sold by that fueling station, including fuel sold to Company B. However, if both Companies A and B agreed, the

regulated/opt-in status for fuel sold to Company B could transfer, and then Company B could opt-in and sell credits for the CNG they used for transportation purposes.

2.Who should the regulated party be for Liquefied Natural Gas (LNG) from fossil sources?

Proposed: The regulated party would be the utility company, energy service provider, or other entity that owns the fuel dispensing equipment in Oregon for transportation use.

Rationale: See CNG. The same rationale applies, although currently, LNG is not used for transportation purposes in Oregon.

Potential regulated/opt-in parties in Oregon: none at this time. LNG is not currently used as a transportation fuel in Oregon

Transfer of regulated party/opt-in status: If another entity purchases the fuel, and both parties involved agree, the compliance obligation or credits can transfer to the purchaser of the fuel.

3. Who should the opt-in party be for Biogas (CNG or LNG)?

Proposed: The opt-in party would be the utility company, energy service provider, or other entity that owns the fuel dispensing equipment in Oregon for transportation use.

Rationale: This provides an incentive for production of low carbon fuels, while capturing the transportation use of the fuel.

Potential regulated/opt-in parties in Oregon: There are a limited number of entities that currently produce biogas in Oregon[4] (six landfills, nine wastewater treatment plants, and three agricultural operations). If the producer compresses and dispenses the biogas for transportation use, for example, in their own fleet, the producer can opt-in to sell credits. If the biogas is injected into the natural gas pipeline (this does not occur in Oregon, but it could), the producer would sell the natural gas to a natural gas company. If the natural gas company dispensed natural gas for transportation, they could sell credits for that volume of biogas bought.

Transfer of regulated party/opt-in status: If another entity purchases the fuel, and both parties involved agree, the compliance obligation or credits can transfer to the purchaser of the fuel.

[4] There are several planned biogas facilities in Oregon

4. Who should the opt-in party be for Hydrogen?

Proposed: The opt-in party would be the entity who owns the fuel at the time the finished fuel[5] is made or imported into Oregon.

Rationale: The finished fuel can be either made prior to fuel dispensing, or can be made in a vehicle. This choice for an opt-in parties covers both possibilities.

Potential regulated/opt-in parties in Oregon: none known at this time.

Transfer of regulated party/opt-in status: If another entity purchases the fuel, and both parties involved agree, the compliance obligation or credits can transfer to the purchaser of the fuel.

5. Who should the regulated party be for gasoline, diesel, and biofuels?

This will be the main focus of the regulated/opt-in party discussion at the February 24th low carbon fuel advisory committee meeting. Described below is California's approach to regulated parties for gasoline, diesel and biofuels. Considerations for choosing a regulated party in Oregon include:

- How fuels are distributed (including accounting for fuels exported out of state),
- Flexibility to minimize compliance cost, and
- Aligning with other reporting requirements of potential LCFS regulated parties in Oregon

California regulated parties for gasoline, diesel, and biofuels:

The regulated party would be the producer or California importer[6] of the fuel or blendstock. The point of regulation would be the point at which finished gasoline or diesel is first

[5] "Finished fuel" means a fuel that is used directly in a vehicle for transportation purposes without requiring additional chemical or physical processing.

[6] "Importer" means the person who owns an imported product when it is received at the import facility in California

manufactured or imported into California. In general, this would put compliance obligations initially on upstream entities (that is, producers and importers that are legally responsible for the quality of gasoline and diesel transportation fuels in California), rather than downstream distributors and fueling stations.

Transfer of regulated party status for gasoline, diesel and biofuels:

The above entities are initially designated as regulated parties who are responsible for LCFS compliance obligations. The regulated party status automatically transfers if the fuel is sold to another importer or producer, unless both parties agreed the compliance obligation should not transfer. Although this would allow the compliance point to bump down the chain of owners, this also provides flexibility.

Why would a regulated party choose to either keep or transfer its compliance obligation? Why would another company agree to accept it?

Allowing the transfer of the compliance obligation is a way to increase flexibility in the regulation and to decrease compliance costs. For example: Company A with only high carbon fuels might have difficulty meeting the LCFS, but Company B (who is not a regulated party) might have access to low carbon fuels, and could meet the LCFS by averaging the higher carbon intensity fuels from Company A with its lower carbon fuels. In such as case, Company B could accept the compliance obligation from Company A. This arrangement would be initiated if mutually beneficial to both companies, and would be a market-based decision on their part.

Electricity

Please note that we will be discussing issues specific to electricity at a future advisory committee meeting.

Summary table – proposed regulated and opt in parties, point of regulation, and transfer of compliance obligation.

Fuel	Regulated or Opt-In?	Regulated Party	Point of regulation	How is regulated party status transferred
Compressed Natural Gas (fossil sources)	Opt in: North American sources Regulated: All other sources (CNG from non-N. American sources could have a high carbon intensity)	Utility company, energy service provider, or other entity that owns the fuel dispensing equipment in Oregon	Point at which the fuel is dispensed for transportation use	Transfer only occurs if both transferor and recipient agree.
Liquefied Natural Gas (fossil sources)	Regulated (some LNG could have a high carbon intensity)	Utility company, energy service provider, or other entity that owns the fuel dispensing equipment in Oregon	Point at which the fuel is dispensed for transportation use	Transfer only occurs if both transferor and recipient agree.
Biogas CNG, Biogas LNG	Opt-in	Utility company, energy service provider, or other entity that owns the fuel dispensing equipment in Oregon	Point at which the fuel is dispensed for transportation use	Transfer only occurs if both transferor and recipient agree.
Hydrogen	Opt-in	Person who owns the fuel at the time the finished fuel is made or imported into Oregon	Point at which finished fuel is first manufactured or imported into Oregon	Transfer only occurs if both transferor and recipient agree.
Gasoline, Diesel, Biomass based diesel, and ethanol	Regulated	See above for California's regulated parties.	See above for California's regulated parties.	See above
Electricity ***Please note that we will be discussing issues specific to electricity at a future meeting, and this will be revisited at that time.***				