Agenda Item G

Low Carbon Fuel Reporting

State of Oregon
Department of Environmental Quality

Advisory Committee Objective:

At the February 2010 advisory committee meeting DEQ will ask for the committee's input on how reporting requirements might be structured.

DEQ is also interested in hearing suggestions about how low carbon fuel standard reporting requirements could be made efficient by aligning them with similar reports required by other regulatory programs. These include programs operated by DEQ, the California Air Resources Board and the Oregon Department of Transportation.

The committee is asked to address the issues below. Each has a related section that provides additional information on the following pages:

1. Should Oregon's low carbon fuel reporting requirements use California's web-based system or should Oregon create a different system?

2. Are there ways Oregon can harmonize low carbon fuel reporting with other reports? Potential regulated parties are currently subject to some of the following:

    a. DEQ's air quality permitting program for industrial emissions, which includes DEQ's reporting requirements for bulk gasoline plants and gasoline dispensing facilities.

    b. Oregon Department of Transportation's fuel tax reporting.

    c. DEQ's greenhouse gas reporting rule Phase II (which is currently being developed).

1. What Needs to be Reported

Under California's Low Carbon Fuel Standard, regulated parties must submit an initial report of the physical pathway by which a fuel is transported. The physical pathway must describe the transportation method and route used to ship a fuel from the point of production to point of delivery to a regulated party. These initial reports need to be filed only once, or until a physical pathway changes. The demonstration of physical pathway must be approved by California's Air Resources Board before a regulated party can begin producing low carbon fuel credits under the regulation. This process allows the agency to assign a company's fuel to the correct fuel pathway (and carbon intensity).

Regulated parties must also report their fuel carbon intensity every calendar quarter to gauge progress and report fuel carbon intensity annually to establish formal compliance with the regulations. (The credits and deficits paper is at http://www.deq.state.or.us/aq/committees/docs/janLCF/itemB.pdf .) Quarterly reports allow regulators and regulated parties to share a common understanding of a party's compliance trajectory and allow discrepancies and remedies to be identified at an early stage. In addition, this periodic reporting ensures that regulated parties are calculating and monitoring their carbon intensity status. A final report for each calendar year is used to determine compliance with the low carbon fuel standard. Final reports must be submitted by April 30th of each following year. Annual compliance reports need to show the amount of credits and deficits for each fuel provided in Oregon and the average carbon intensity of that fuel. Compliance is assessed separately for each fuel pathway.

The first year of the program requires reporting only; compliance with carbon intensity standards begins with the second year of the program. This approach provides a transitional period in which affected parties can gain experience implementing the regulations and can develop familiarity with reporting systems.

Initial **physical pathway reports** must include:

- The physical routes (truck, rail, pipeline, etc.) by which a fuel is transported or distributed from its point of production through any intermediaries to the fuel blender, producer, importer or provider.
- Evidence of fuel entering a physical pathway,
- Evidence of an equal amount of fuel being removed from a fuel pathway (showing the pathway is actually being used by the company), and
- Revisions to physical pathways when conditions change.

The general requirements* for **quarterly reports** are:

- The volume of fuel provided,
- The average carbon intensity of regulated fuel,
- Transfers of fuel ownership, and transfers of compliance obligations, and
- Emission credits that are acquired, traded, or banked for future use.

The general requirements* for **annual reports** are (in addition to quarterly requirements):

- Total credits and deficits generated or carried over from the previous year, and
- Total credits acquired, sold, transferred or retired.

[*Additional fuel-specific requirements exist for different fuel pathways.]

2. Reporting Tools Available

Harmonizing LCFS Reporting Requirements

DEQ recognizes that regulatory reporting requirements create an administrative workload for affected parties and seeks to minimize the need for additional work whenever possible. Many fuel providers in Oregon already report fuel data for the programs listed below. Each is discussed briefly in this section. The committee is asked to consider these and any other programs that might allow low carbon fuel reporting to piggyback onto existing programs (or for other programs to piggyback onto low carbon fuel reports).

General considerations for harmonizing LCFS reporting requirements with the reporting requirements of other programs are:

- Are fuel emissions addressed by other programs expressed in terms of the life-cycle emissions that are the basis of a LCFS? For example, do they include upstream emissions that may occur out-of-state?
- Can the greenhouse gas and fuel reports of other programs be matched with specific fuel pathways in a LCFS? (For example, the carbon intensity of ethanol varies widely according to how its feedstock was produced and processed.)
- Are the reports required by other programs submitted by the same entities that would be regulated parties under a LCFS?
- Do the various regulatory frameworks have compatible exemption requirements?

Additional considerations for aligning LCFS reports with the reports of other specific programs follow:

2a. Compliance Reporting Tool

California requires quarterly and annual reports to be submitted through their recently developed online Compliance Reporting Tool. This tool uses open-source software and is available for Oregon's use. If Oregon adopts the Compliance Reporting Tool, regulated parties accustomed to California's reporting practices will be able to quickly address Oregon's requirements. The Compliance Reporting Tool includes a Credit Tracking System feature that allows regulators and regulated parties to monitor a company's credit balance on an ongoing basis.

Suggested approach: DEQ proposes to base reporting requirements for an Oregon low carbon fuel program on the California precedent with possible modifications.

2b. Air Quality Permits

Emissions from industrial sources are governed by Title V and Air Contaminant Discharge Permits issued by the Air Quality Division. Many companies likely to be regulated parties under a LCFS hold air quality permits which include greenhouse gas emissions. Industrial sources that emit more than 2500 metric tons of greenhouse gas per year need to report those emissions annually to DEQ under the Greenhouse Gas Reporting rule. These requirements apply to a variety of permit holders including electricity generators, gasoline producers and ethanol plants. In addition, EPA is formally evaluating whether greenhouse gas emissions will need to be added at a future date to permits required by the Clean Air Act (V and Prevention of Significant Deterioration permits).

2c. Expanded Greenhouse Gas Reporting Rule (Phase II)

DEQ is currently working with an advisory committee to expand the Greenhouse Gas Reporting rule. The committee is discussing scope of the rule, minimal GHG thresholds that trigger requirements, and various reporting mechanisms. It is likely to apply only to a portion of the parties regulated by a LCFS. It is not clear if final rule modifications will distinguish transportation fuel emissions from other emissions. Depending on the outcome of this rulemaking, it is possible that the GHG reporting requirements and the LCFS requirements could be combined into an efficient system from those entities that are covered by this rule. DEQ will know more about the result of its committee discussions and draft rule in the spring of 2010.

Suggested approach: DEQ invites suggestions from the LCFS and GHG Reporting advisory committees for how the reporting requirements of the two programs could be coordinated.

2d. Fuel Tax Reports

Oregon Department of Transportation receives reports from all fuel suppliers for the collection of fuel taxes. Conceptually, this system might be modified to add reporting information relevant to the LCFS program. However, this mechanism is limited to fuels used for on-highway purposes whereas a LCFS also includes non-highway applications. It seems like it would be burdensome to add all the report information required in section 1 above, to a system that is designed strictly to report fuel volumes. A LCFS program reporting system must also include the carbon intensity of the fuel sold, deficits or credits generated, the transfer of compliance obligations, etc. A final problem is that highway vehicles over 26,000 lbs. have the option of paying an alternate weight-mile tax instead of the per gallon tax. This would complicate the use of the fuels tax system as a LCFS reporting framework.

Oregon Department of Transportation supports legislation to authorize development of a fuel tax database to improve the efficiency and accuracy of fuel tax reporting.

3. Specific Industries

Compressed Natural Gas, Liquid Natural Gas, Biogas and Hydrogen

These fuels are either not used as transportation fuels in Oregon or are used only in small amounts. However, it is reasonable to expect their use will grow in the future. Some providers of on-highway fuel are likely to hold air quality permits and may be subject to Oregon's fuel tax reporting requirements. Such providers would be confronted with the issues of aligning LCFS reporting requirements with the differing requirements of the air quality permit and fuel tax programs discussed above.

Gas, Diesel and Biofuels

Many providers of gasoline, diesel and biofuels have air quality permits but the amount of fuel that a regulated party is responsible for can increase or decrease through transfers of compliance obligations. Therefore, the amount of fuel regulated subject to LCFS reporting may well be different than the amount to be reported under an air quality permit. Also, it seems the reporting detail required under a LCFS is beyond the current capabilities of the fuels tax reporting system. DEQ hopes that Oregon Department of Transportation's fuel tax reporting system will be updated in the next several years. Even so, would this be the best framework for reporting and tracking essential elements of the LCFS program? DEQ welcomes committee input.

Electricity

Electric utilities in Oregon that hold air quality permits and emit more than 2500 tons of greenhouse gases need to report those emissions to DEQ. Those reports apply to direct emissions and therefore would need to be recalculated for LCFS purposes. Smaller utilities and utilities that do not produce electricity in Oregon may not have permits so a permit reporting mechanism would not apply to all parties in this category. If DEQ expands the Greenhouse Gas Reporting rule it may require utilities to estimate greenhouse gas emissions from electrical generation and distribution using factors approved by DEQ. Third party reporting may be allowed for electricity purchased from the Bonneville Power Administration.

4. Initial Conclusions

At this point, DEQ thinks that existing reporting mechanisms have some potential for efficiencies, but that each mechanism has difficulties. Given the unique requirements of a LCFS program, the best reporting method seems to be California's electronic reporting system. The web-based Compliance Reporting Tool (as modified for Oregon) appears to have advantages for both regulated parties and the agency. DEQ is open to having an alternative system for regulated parties that already have air quality permits or will report to DEQ as part of the greenhouse reporting requirements.

5. Guidance Documents

As a companion to reporting requirements, DEQ would develop web-based guidance to assist in the compliance process. The guidance would include a summary of the requirements for compliance, credit generation, banking, etc., with example calculations, methodologies and contacts for technical assistance. DEQ welcomes committee input on what the essential elements of this guidance should be.