#### State of Oregon

Department of Environmental Quality Memorandum

**Date:** July 16, 2012

**To:** Environmental Quality Commission

**From:** Dick Pedersen, Director

**Subject:** Agenda item xx, Informational item: Proposed Oregon Clean Fuels Program

August 24, 2012 EQC meeting

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| **Why this is important** | DEQ has opened the public comment period to gather input on DEQ’s proposed rules for the Oregon Clean Fuels Program. The comment period opened on July 18, 2012 and will close on August 31, 2012. The commission will have an opportunity to receive oral and written testimony from the public at the August 2012 meeting. Along with attending the public hearing in Portland, members of the public can also visit DEQ’s regional offices in Eugene, Medford, Bend and Pendleton to provide the commission with testimony via teleconference. The commission will consider the proposed rules for adoption at the December 2012 meeting. |
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| **Background and other information** | The Oregon Clean Fuels Program is a component for several important Oregon initiatives including Oregon's energy, transportation and climate protection action plans. Approximately one-third of Oregon’s greenhouse gases come from transportation sources and providing cleaner fuels will help reduce these emissions.  The 2009 Oregon Legislature authorized the commission to adopt a low carbon fuel standard, now known as the Oregon Clean Fuels Program. In April 2012, [Governor Kitzhaber asked DEQ](http://www.deq.state.or.us/aq/cleanFuel/docs/LowCarbonStandards041712.pdf) to begin the rulemaking process.  The goal of this proposed rulemaking is to adopt the Oregon Clean Fuels Program rules for fuel suppliers and producers of transportation fuels. The proposal is for a complete program that would be implemented in two phases: an initial reporting phase and a later greenhouse gas reduction phase. The second phase would be deferred pending additional legislative and commission action.  Phase 1 is proposed to begin Jan. 1, 2013, and would require Oregon fuel producers and importers to register, keep records and report to DEQ the volumes and carbon intensities of the fuels they provide in Oregon. Phase 1 is intended to provide DEQ and regulated parties time to fully develop record-keeping and reporting protocols and systems. It would also allow DEQ to gather valuable data about Oregon’s transportation fuels that will help inform DEQ and decision makers about the feasibility of moving ahead with the next phase of the program.  Phase 2, if adopted, would require regulated parties to reduce the average carbon intensity of fuels they provide in Oregon each year. If DEQ recommends moving forward with Phase 2 of the program, DEQ would initiate a new rulemaking process, including new advisory committees to gather new input on the design of the Phase 2 rules and it’s fiscal and economic impact. Phase 2 can only be implemented if the Oregon Legislature adopts a bill to remove the statutory 2015 sunset that currently applies to the Oregon Clean Fuels Program. In addition, Phase 2 could only be implemented if the commission adopts rules to remove the regulatory deferral of Phase 2 of the Oregon Clean Fuels Program. |
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| **Public outreach** | DEQ developed the proposed rules based on discussions and recommendations from a [29-member advisory committee](http://www.deq.state.or.us/aq/committees/advcomLowCarbonFuel.htm) that helped DEQ explore technical issues and policy choices for designing the program. The committee included representatives of many areas of expertise, including petroleum fuel, low carbon fuel, environment, labor, farm, construction, trucking and rail.  DEQ also convened an advisory committee to gather input on the fiscal impact of complying with the Phase 1 requirements of the proposed rules. Eleven people from the business and environmental communities were invited to participate on the committee and, with members of the public, were provided an opportunity to comment on the draft Statement of Need and Fiscal and Economic Impact. |
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| **Next steps and commission involvement** | The public comment period will close on August 31, 2012. DEQ will prepare a response to all comments received during the public comment period and may modify the proposed rules. DEQ plans to recommend adoption of the rules at the commission’s December 2012 meeting. |
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| **Attachments** | Rulemaking Announcement |
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| **Available online (or Available upon request)** | * Oregon Low Carbon Fuel Standards Advisory Committee Process and Program Design Final Report (including the economic analysis) |
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Approved:

Division: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Section: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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