

Secretary of State
STATEMENT OF NEED AND FISCAL IMPACT
A Notice of Proposed Rulemaking accompanies this form.

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ARCHIVES DIVISION
SECRETARY OF STATE

Department of Environmental Quality

340

Agency and Division

Administrative Rules Chapter Number

Clean Fuels Program Corrections

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:

Clean Fuels Program Corrections Rulemaking

Statutory Authority:

ORS 468.020, 468A.275

Other Authority:

House Bill 2186 (2009) & Senate Bill 324 (2015)

Statutes Implemented:

ORS 468A.275

Need for the Rule(s):

In February 2016, a regulated party contacted the Clean Fuels Program because calculations they had developed while planning for compliance with the clean fuel standards were not consistent with those adopted by the EQC on Dec. 9, 2015. It was discovered that the adopted rules omitted a necessary adjustment for the energy density of ethanol and biodiesel relative to the energy density of gasoline and diesel fuel.

- 1) The miscalculation results in the clean fuel standards being lower than they should be.
- 2) The miscalculation also results in the carbon intensity values for E10 (gasoline blended with 10 percent ethanol) and B5 (diesel blended with 5 percent biodiesel) being lower than they should be.

Adopting the proposed rules will correct the miscalculations.

This affects the program in two important ways:

- 1) Most importantly, the clean fuel standards and the carbon intensity values currently in rule are simply inaccurate and need to be corrected. Correcting the rule will ensure that reports submitted by regulated parties are accurate. DEQ has notified the regulated parties about this situation and will continue to do so to ensure proper reporting after this rulemaking is complete.
- 2) The omission has created inaccuracies in the way deficits and credits are calculated and used to demonstrate compliance with the program.

How would the proposed rule address the need?

Adopting the proposed rules will correct the omission, ensuring that reports submitted by regulated parties are accurate.

How will DEQ know the rule addressed the need?

DEQ will know that the need was addressed when quarterly reports are submitted and they are accurate.

Documents Relied Upon, and where they are available:

Memo to explain the corrections to the clean fuels standards - <http://www.oregon.gov/deq/RulesandRegulations/Documents/cfBaseStand.pdf>

CFP Corrections temporary rulemaking materials, April 2016 - <http://www.oregon.gov/deq/EQC/Documents/2016/042116eqcltemN.pdf>

Fiscal and Economic Impact:

Deficits are generated when the carbon intensity of a specific fuel exceeds the clean fuel standard in a given year. Credits are generated when the carbon intensity of a specific fuel is lower than the clean fuel standard in a given year. To be in compliance, a regulated party must

balance the number of deficits and credits generated in a compliance period.

For this rulemaking, the fiscal and economic impacts relates to the change in the amount of deficits and credits that are generated as a result of the proposed rule changes.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):

State and federal agencies

Direct Impacts

The proposed rule changes do not impose direct fiscal or economic effects on state or federal agencies, unless the agency imports or provides transportation fuels.

Indirect Impacts

State and federal agencies are fuel consumers. Fuel consumers could benefit if the savings from reduced compliance costs are passed on to consumers.

Local governments

Direct Impacts

The proposed rule changes do not impose direct fiscal or economic effects on local governments, unless the government imports or provides transportation fuels.

Indirect Impacts

Local governments are fuel consumers. Fuel consumers could benefit if the savings from reduced compliance costs are passed on to consumers.

Public

Direct Impacts

The proposed rule changes do not impose direct fiscal or economic effects on the public.

Indirect Impacts

Members of the public are fuel consumers. Fuel consumers could benefit if the savings from reduced compliance costs are passed on to consumers.

2. Cost of compliance effect on small business (ORS 183.336):

a. Estimate the number of small business and types of businesses and industries with small businesses subject to the rule:

There are currently 54 small businesses registered with the program, primarily fuel providers and distributors and biofuel producers.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

The proposed rule changes would not affect these costs.

c. Equipment, supplies, labor and increased administration required for compliance:

The proposed rule changes would not affect these costs.

How were small businesses involved in the development of this rule?

DEQ convened a 10-member advisory committee that included small businesses to discuss the proposed rule changes.

Administrative Rule Advisory Committee consulted?:Yes

If not, why?:

07-21-2016 4:00 p.m.	Meyer Goldstein	meyer.goldstein@state.or.us
Last Day (m/d/yyyy) and Time for public comment	Printed Name	Email Address