Clean Fuels Program Corrections 2016
Fiscal Impact Statement

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Background

The Oregon Clean Fuels Program is a technology-neutral, market-based regulatory approach to reduce carbon pollution from transportation fuels. The program does not mandate the use of any particular type of fuel or technology. Instead, it defines a performance standard to reduce the average carbon intensity of fuels used in Oregon by 10 percent over 10 years. The program offers many strategies for meeting the clean fuel standards by allowing each regulated party the flexibility to use any combination of these strategies to meet its particular circumstance, perspective and business needs.

Purpose of the Rulemaking

DEQ proposes to amend the Oregon Clean Fuels Program rules under division 253 of chapter 340 of the Oregon Administrative Rules. The proposed rule changes would correct a miscalculation of how the clean fuel standards and the carbon intensity values of two fuel pathways were calculated in the rules adopted by the EQC on Dec. 9, 2015. Temporary rules to correct the miscalculation were adopted by the EQC on April 21, 2016. This rulemaking will make those corrections permanent.

What need is DEQ trying to address?

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. Table 1 shows the current and proposed clean fuel standards after the miscalculation is corrected.

		Current Standards		Proposed Standards	
Year	Reduction	Gasoline	Diesel	Gasoline	Diesel
2015	(baseline)	97.80	99.48	98.62	99.64
2016	0.25%	97.56	99.23	98.37	99.39
2017	0.50%	97.31	98.98	98.13	99.14
2018	1.00%	96.82	98.49	97.63	98.64
2019	1.50%	96.33	97.99	97.14	98.15
2020	2.50%	95.36	96.99	96.15	97.15
2021	3.50%	94.38	96.00	95.17	96.15
2022	5.00%	92.91	94.51	93.69	94.66
2023	6.50%	91.44	93.01	92.21	93.16
2024	8.00%	89.98	91.52	90.73	91.67
2025	10.00%	88.02	89.53	88.76	89.68

Table 1. Current and proposed clean fuel standards

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. Table 2 shows the current and proposed carbon intensity values.

Fuel type	Current carbon intensity value	Proposed carbon intensity value
E10	97.68 gCO2e/MJ	98.54 gCO2e/MJ
B5	98.48 gCO2e/MJ	99.64 gCO2e/MJ

Table 2. Current and proposed carbon intensity values

Adopting the proposed rules will correct the miscalculations.

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 calendar year.

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. Table 3 compares how many credits are generated with the current clean fuel standards and the proposed ones for select fuels. Deficits are shown as negative credits.

Fuel type	CI (gCO2e/MJ)	2016 Clean fuel standard (gCO2e/MJ)		Deficits or Credits generated (gCO2e/MJ)	
		Current	Proposed	Current	Proposed
Gasoline	100.77	97.56	98.37	- 3.21	- 2.40
Diesel	101.65	99.23	99.39	- 2.42	- 2.26
MW corn ethanol	69.89	97.56	98.37	+ 27.67	+ 28.48
NW soybean biodiesel	58.25	99.23	99.39	+ 40.98	+ 41.14
Electricity	31.85	97.56	98.37	+ 65.71	+ 66.52
Fossil CNG	79.93	99.23	99.39	+ 19.30	+ 19.46

Table 3. Changes in credits generated

For importers of fuels that generate deficits, this rulemaking will reduce the number of deficits generated for those fuels. For importers and producers of fuels that generate credits, this rulemaking will increase the number of credits generated by those fuels. In both cases, the proposed rules will make it easier, and thus less costly, for regulated parties to comply with the clean fuel standards. Fuel consumers could also benefit if the savings from reduced compliance costs are passed on to consumers. Generators of credits might see a slight drop in revenues as more credits will be generated for the same amount of alternative fuels provided and fewer credits will be needed by regulated parties to meet the standards, hence the value of the credits might decrease.

Oregon Department of Environmental Quality

Direct Impacts: The proposed rule changes would not impact DEQ's cost to implement the Clean Fuels Program.

Indirect Impacts: DEQ is a fuel consumer. Fuel consumers could benefit if the savings from reduced compliance costs are passed on to consumers.

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.

Large businesses - businesses with more than 50 employees

There are approximately 42 large businesses registered with the Clean Fuels Program as a regulated party or a credit generator. The proposed rule changes do not impact the number or type of large businesses subject to the program.

Direct Impacts: For importers of fuels that generate deficits, this rulemaking will reduce the number of deficits generated for those fuels. For importers and producers of fuels that generate credits, this rulemaking will increase the number of credits generated by those fuels. In both cases, the proposed rules will make it easier, and thus less costly, for businesses to comply with the clean fuel standards. This could also mean that businesses that generate credits might see a slight drop in revenues.

Indirect Impacts: Large businesses are fuel consumers. Fuel consumers could benefit if the savings from reduced compliance costs are passed on to consumers.

Small businesses – businesses with 50 or fewer employees

There are approximately 54 small businesses registered with the program as a regulated party or a credit generator. The proposed rule changes do not impact the number or type of small businesses subject to the program.

Direct Impacts: For importers of fuels that generate deficits, this rulemaking will reduce the number of deficits generated for those fuels. For importers and producers of fuels that generate credits, this rulemaking will increase the number of credits generated by those fuels. In both cases, the proposed rules will make it easier, and thus less costly, for businesses to comply with the clean fuel standards. This could also mean that businesses that generate credits might see a slight drop in revenues.

Indirect Impacts: Small businesses are fuel consumers. Fuel consumers could benefit if the savings from reduced compliance costs are passed on to consumers.

a. Estimated number of small businesses and types of businesses and industries with small businesses subject to proposed 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, including costs of professional services, required for small businesses to comply with the	The proposed rule changes would not affect these costs.

proposed rule.	
c. Projected equipment, supplies, labor and increased administration required for small businesses to comply with the proposed rule.	The proposed rule changes would not affect these costs.
d. Describe how DEQ involved small businesses in developing this proposed rule.	DEQ convened a 10-member advisory committee that included small businesses to discuss the proposed rule changes.

Documents relied on for fiscal and economic impact

Document title	Document location
CFP Corrections temporary rulemaking materials, April 2016	http://www.oregon.gov/deq/EQC/Documents/2016/042116eqcItemN.pdf

Advisory committee

As ORS 183.33 requires, this advisory committee is being asked to provide recommendations on:

- Whether the proposed rules would have a fiscal impact,
- The extent of the impact, and
- Whether the proposed rules would have a significant adverse effect on small businesses and complies with ORS 183.540.

If the advisory committee's response to the third bullet is yes, then ORS 183.333 and 183.540 require the committee to consider how DEQ could reduce the rules' fiscal impact on small business, to the extent consistent with the public health and safety purpose of the rule, by:

- Establishing differing compliance or reporting requirements or time tables for small business;
- Clarifying, consolidating or simplifying the compliance and reporting requirements under the rule for small business;
- Utilizing objective criteria for standards;
- Exempting small businesses from any or all requirements of the rule; or
- Otherwise establishing less intrusive or less costly alternatives applicable to small business.