

Clean Fuels Program 2018 Rulemaking Advisory Committee Charter

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Program**

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DEQ is a leader in
restoring, maintaining and
enhancing the quality of
Oregon's air, land and
water.



State of Oregon
Department of
Environmental
Quality

Documents can be provided upon request in an alternate format for individuals with disabilities or in a language other than English for people with limited English skills. To request a document in another format or language, call DEQ in Portland at 503-229-5696, or toll-free in Oregon at 1-800-452-4011, ext. 5696; or email deqinfo@deq.state.or.us.

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Background

The 2009 Legislature authorized the Environmental Quality Commission (EQC) to adopt low carbon fuel standards in order to reduce greenhouse gas emissions from Oregon's transportation fuels. The Department of Environmental Quality (DEQ) implements that statute as amended in 2015 and 2017 through the Oregon Clean Fuels Program.

The following is a summary of rulemakings that the EQC has adopted for the Clean Fuels Program:

- December 2012 - Phase 1 rules to establish requirements for importers of gasoline, diesel, ethanol and biodiesel to register, keep records and report fuel imports and transactions.
- June 2014 – Modify the definition of importer and make reporting easier.
- January 2015 – Phase 2 rules to establish the carbon intensity requirements.
- December 2015 – Incorporate SB 324 including additional exemptions, redefining small importer threshold, amend biodiesel specifications. Also update the carbon intensity models and establish enforcement criteria.
- April 2016 – Modify the carbon intensity requirements to correct a miscalculation.
- November 2017 – Incorporate HB 2017 including market monitoring, emergency and forecasted fuel supply deferrals, credit clearance market, program and market transparency, electricity provisions and other miscellaneous changes.

The Clean Fuels Program 2018 Rulemaking Advisory Committee is being convened to provide stakeholders with an opportunity to comment on technical and policy issues, as well as the fiscal and economic impact of the proposed amendments when compared to the existing rule. Committee meetings will be held through the first half of 2018. DEQ will seek additional formal public comment on the amendments when they are formally proposed, likely in the third quarter of 2018. DEQ will consider all comments before preparing a final package of amendments to the rule for consideration by the EQC prior to the end of 2018.

Objectives and Scope

Policy Objectives

The committee will discuss and be asked to provide input on the following topics:

- Mechanisms to incorporate verification to various parts of the program
- Updates to the models used to determine the carbon intensities of fuels
- Alignment of the enforcement provisions in Division 12 with the Division 253 rules adopted by the EQC on November 3, 2017
- The potential for additional credit generation to the program
- Other topics, as identified by DEQ staff

Fiscal and Economic Impact

The committee, in accordance with ORS 183.333, will be asked to consider:

- Whether the proposed rule changes will have a fiscal impact, and if yes, what the extent of that impact will be, and
- Whether the proposed rule changes will have a significant adverse impact on small businesses, and if so, recommendations on compliance with ORS 183.540¹.

Roles

Committee Chair

Ms. Morgan Rider has agreed to chair the CFP 2018 rulemaking advisory committee. Morgan has a BS in Civil & Environmental Engineering from Cornell University with over 25 years of experience working with government, nonprofit and private organizations on a variety of environmental and natural resource related issues. Morgan was a member of the Environmental Quality Commission and Oregon Watershed Enhancement Board from 2012 - 2017. She's currently a Connector at Grady Britton.

The Chair shall:

- Facilitate the conversation so the committee stays focused on the agenda and on intended outcomes of the meeting
- Ensure that all perspectives are heard
- Ensure that all members adhere to the process and ground rules
- Facilitate comments and input from the public

Committee Members

In convening this committee, DEQ has selected members that reflect the range of entities both directly and indirectly affected by implementation of the program. Representatives should be able to consider the technical, policy, fiscal and economic impact of the program for their organization that they represent.

The committee will include members that represent:

- Regulated parties and credit generators
 - Importers of gasoline, diesel, ethanol, biodiesel and renewable diesel
 - Providers of electricity, natural gas and propane for use as a transportation fuel
 - Producers of biogas
- Entities that have knowledge in and/or participate in carbon and other environmental markets
- The general public and conservation organizations with members that may be impacted by the program.

¹ If the statement of cost of compliance effect on small businesses required by ORS 183.335 (2)(b)(E) shows that a rule has a significant adverse effect upon small business, to the extent consistent with the public health and safety purpose of the rule, the agency shall reduce the economic impact of the rule on small business by: (1) Establishing differing compliance or reporting requirements or time tables for small business; (2) Clarifying, consolidating or simplifying the compliance and reporting requirements under the rule for small business; (3) Utilizing objective criteria for standards; (4) Exempting small businesses from any or all requirements of the rule; or (5) Otherwise establishing less intrusive or less costly alternatives applicable to small business.

A complete roster of the advisory committee can be found here:
<http://www.oregon.gov/deq/Rulemaking%20Docs/CFP2018roster.pdf>.

Committee members shall:

- Prepare for and attend each meeting to ensure continuity throughout the process.
- Each organization may identify up to 2 representatives.
 - The two individuals may be experts in different subject matters or simply be an alternate to the primary to ensure continuity of participation throughout the process.
 - Both representatives will be able to participate in discussions when input is requested specifically from advisory committee members.
 - The alternate does not need to be from the same organization, but should represent similar perspectives.
 - It is the primary member's responsibility to fully brief the alternate on all relevant issues and prior committee discussions.
- Consult regularly with constituencies to inform them on the process and gather their input.
- Avoid representing to the public or the media the views of any other committee member or the committee as a whole.
- Stay focused on the specific topics for each meeting.
- Comment constructively and in good faith.
- Be courteous by not engaging in sidebar discussions.

Non-Committee Member Attendees

Those who attend the committee meetings, but are not members of the committee are there only to observe and not to actively participate. If non-committee members are present at a meeting, DEQ may allow time during the meeting for their comments.

DEQ Staff

DEQ is committed to making the most effective use of committee member's time by:

- Establishing clear committee goals, meeting objectives and agendas;
- Giving committee members reasonable access to staff;
- Encouraging all members to take part in discussions; and
- Providing a clear description of members' roles, the committee timeline, the level of agreement expected and feedback on how members' input is used.

DEQ Support and Website

DEQ will post agenda and meeting materials on the advisory committee website at least one week in advance. DEQ administrative staff will provide meeting summaries that highlight committee discussions, different perspectives and input of committee members. DEQ will not prepare a formal committee report. DEQ will send draft meeting summaries to the advisory committee for review and input. Final meeting minutes will be posted to the advisory committee website and will be part of the public record.

The advisory committee charter, a full roster of the committee, meeting agendas and minutes, and background materials will all be located on the advisory committee webpage at: <http://www.oregon.gov/deq/Regulations/rulemaking/Pages/rCFP2018.aspx>.

Public Records and Confidentiality

Committee records, such as formal documents, discussion drafts, meeting summaries and exhibits are public records. Committee communications are not confidential and may be disclosed. However, the private documents of individual committee members generally are not considered public records if DEQ does not retain copies.

Summary of Input

DEQ will not prepare formal meeting minutes. Rather, a meeting summary will document the highlights of committee discussions and the different perspectives and recommendations of committee members. Committee members will be given one week after the meeting summary is posted to provide any additional written comment if necessary. DEQ will not prepare a formal committee report.

Decision Making

DEQ will not seek consensus positions from the committee, nor will the committee be asked to vote on specific issues. The committee's discussions will be used by DEQ in forming its draft rule, which will then be proposed for broader public review and comments as part of DEQ's rulemaking process.

Stakeholder Involvement

Once the committee process is complete, DEQ will develop draft rules and conduct a public rulemaking process to seek broader public and stakeholder input. Advisory committee members can also provide additional input to DEQ at this time. DEQ's final rule proposal may be modified based on public comment during the formal public comment period. DEQ intends to take a final proposed rule to the EQC for consideration prior to the end of 2018.

Communications and Media Coverage

DEQ will respond to public or media inquiries associated with the organization, structure, process and goals for the program and committee process. While free to communicate and share individual perspectives with the media and others, DEQ asks committee members to offer their personal viewpoint only and to refrain from speaking for other committee members or the committee as a whole. We ask committee members to vet ideas and issues concerning the program at committee meetings before discussing them outside of the committee structure, since the way in which positions are publicly represented may affect the ability of the committee to work together. When asked for information about the purpose or activities of the committee, DEQ asks you to refer others to the committee website.

DEQ Contacts

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