State of Oregon Department of Environmental Quality

Draft fiscal and economic, racial equity, and environmental justice statements

Clean Fuels Program 2024 Rulemaking Advisory Committee Meeting 2

Request for advisory committee comment

DEQ is requesting feedback and any additional data or information from members of the advisory committee on:

- Whether the proposed rules would have a fiscal impact and the extent of that impact
- Whether the rules will have a significant economic effect on businesses, and options that the EQC should consider for achieving the rules' substantive goals while reducing that impact
- Whether the proposed rules would have a significant adverse effect on small businesses, and if yes, how might the EQC reduce that impact consistent with the public health and safety purpose of the proposed rules
- Potential racial equity impacts of the proposed rules
- Potential environmental justice considerations of the proposed rules

As a reminder, the analyses done for each rulemaking are on the effects of that particular rulemaking. So in the case of this rulemaking, it does not re-analyze the existing effects of the Clean Fuels Program, just the changes that these proposed rules and the adoption of the updated OR-GREET models will have.

DEQ is requesting comments on these statements via email to CFP.2024@deq.oregon.gov by the close of business on Wednesday, Aug.28, 2024.

Statement of fiscal and economic impact

Fiscal and Economic Impact

This rulemaking: (1) Updates the Oregon GREET model, which is used to calculate carbon intensity (CI) scores for the fuels in the Clean Fuels Program, (2) requires electricity reporting entities and fuel pathway applicants to undergo third party verification, (3) creates additional requirements and a reserve account for approved fuel pathways based partly on the use of carbon capture and sequestration projects and (4) makes other adjustments to the rules to clarify processes and better define requirements.

The changes to Oregon GREET update the model to more current science and make the program and its emissions reductions more accurate. There are a wide number of changes from OR-GREET 3.0 to OR-GREET 4.0, and they will affect different fuel producers differently. Some will see their CI scores lowered from the model change, increasing the number of credits they generate, while others will see their CI scores raised, decreasing the number of credits they generate.

Updates to the CI standards due to the updated baselines for E10, B5 and fossil jet fuel will also affect credit and deficit generation across a wide variety of fuels, but the effects are generally modest. Some producers or importers may be more affected than others depending on the fuels they import.

	Proposed OR-GREET 4.0 values			Existing Values from OR-GREET 3.0				Change	
$/Credit	**$30**	**$75**	**$140**	**$30**	**$75**	**$140**	**$30**	**$75**	**$140**
E10	4.11¢	10.28¢	19.19¢	4.18¢	10.45¢	19.51¢	-0.07¢	-0.17¢	-0.31¢
B5	4.85¢	12.13¢	22.63¢	4.77¢	11.91¢	22.24¢	0.08¢	0.21¢	0.39¢
Gasoline	4.85¢	12.13¢	22.63¢	5.09¢	12.72¢	23.75¢	-0.24¢	-0.60¢	-1.11¢
Diesel	5.86¢	14.64¢	27.34¢	5.59¢	13.97¢	26.08¢	0.27¢	0.68¢	1.26¢

Table 1. Effect of lookup table and CI standard updates in 2026

The above table estimates the cost effect of the updates on imported gallons of pure gasoline, diesel, and imported E10 gasoline and B5 diesel that was blended out of state. This follows the same conservative methodology for estimating the cost of the program that DEQ uses for its annual cost posting, which calculates the amount of a deficit each gallon would generate and then what the cost would be to purchase a credit to cover that fraction of a deficit. The range of values were chosen as follows: $30 represents current credit market prices, $140 was roughly the average price in 2023, and $75 to provide a point in the middle between the two. The analysis was done for 2026, which is the year that the updates are proposed to take effect. The change portion of the table shows that the effect of the updated values is generally less than a cent.

Updating fuel pathways from the current to the updated GREET model will require some administrative costs for fuel producers to fill out both models with the 2025 Annual Fuel Pathway Report, and to have their verifier confirm that both models have been filled out correctly if they are subject to third party verification in Oregon. These are one-time costs and DEQ estimates that they could cost each producer up to a few thousand dollars.

Based on the above, the overall fiscal and economic effect of the OR-GREET updates is generally modest across the program's participants. Individual companies will see different effects from the change – some low-carbon fuel producers may generate more credits and have a positive impact from the changes, others may generate fewer credits. All would need to switch to the new models and absorb those costs. A fuel importer who imports mainly gasoline could see their costs decrease, while one that imports mainly diesel could see their costs increase to the extent they are still importing fossil diesel in 2026. How individual companies will be affected is difficult to estimate ahead of time as different companies are differently situated and may react differently.

The elimination of the hydrogen lookup table values and addition of the Tier 1 calculator for that fuel will require those producers to incur some additional costs to compile and apply for fuel pathways with DEQ to report their fuels. That effort will cost several thousand dollars per application, but if their fuel's carbon intensity has a lower value than the more conservative lookup table values in the current program they will generate more credits in the program and thus benefit from additional revenue.

The additional requirements for fuel pathway applicants and electricity reporting entities to undergo third party verification will require them to pay for a verifier to review their data. Verification costs will vary depending on the complexity of the verification being required. For fuel pathway applicants this verification is a one-time cost, as it is only required for the application process and existing rules already determine whether they must undergo verification on an annual basis for their annual fuel pathway reporting.

For entities that only report electricity transactions, this rulemaking will now require them to go through third party verification and pay for a verifier if their reporting is over the threshold. California estimates that the costs of verifying electricity transactions is $0.006 per KWh, reported in their regulatory impact statement in December 2023, based on a survey of verification bodies. Estimates provided to DEQ for our 2019 rulemaking assessing the cost of third party verification of CFP quarterly reports and fuel pathway applications ranged from $17,000 for a simple report to $70,000 for a more complex report or pathway application. Which would put the cost range for validation and verification services now between $20,000-82,000 using the consumer price index to estimate inflation.

The new requirements for fuel pathways that include use of carbon capture and sequestration facilities and the reserve account do result in costs for those facilities in terms of credits they may have otherwise generated going into the reserve account. The number of credits being put aside will depend on the factors in the risk-based methodology that DEQ is proposing to adopt, which will vary depending on various factors and ranges between 8-16.5% of the credits attributable to the CCS project component of the fuel pathway. The cost to the CCS project operator/fuel pathway holder is those forgone credits times the credit price when they would have monetized them. However, but for the proposed creation of the reserve, if there was future leakage from the CCS storage reservoir they would have been responsible for the costs of replacing the number of credits commensurate with the amount of that leakage, so this insurance mechanism avoids that cost for them.

The other updates to the rules are largely clarifying existing requirements, better defining processes around corrections and fuel transfer reconciliation, and creating an attestation system for specified source feedstocks. The clarifications and better defining processes should not create additional costs for regulated parties.

The attestation system will require fuel producers and specified source feedstock suppliers to maintain attestations about those feedstocks and will require their verifiers to review those attestations. This will create some administrative and recordkeeping costs for fuel producers and feedstock suppliers that DEQ estimates will cost several thousand dollars per year per feedstock supplier and producer.

Statement of Cost of Compliance

Oregon Department of Environmental Quality

DEQ will use existing positions to implement changes resulting from the proposed rules.

Other governments

State agencies other than DEQ and local governments that are subject to Division 253 may experience the fiscal impacts as discussed in the Fiscal and Economic Impacts section above.

Public

The public may be impacted if the cost of complying with the proposed rule changes are passed on to consumers by the affected parties. As shown above, the cost of compliance is variable from entity to entity so it is difficult to quantify a specific impact. Nevertheless, given that the estimated fiscal impacts to regulated entities are modest, DEQ believes the main effect ton the public would be any costs passed through from the changes to the standards and lookup table values in Table 1 above.

Large businesses - businesses with more than 50 employees

The impacts described in the Fiscal and Economic Impact section above applies to large businesses that are:

- Fuel producers
- Registered parties
- Aggregators

Small businesses – businesses with 50 or fewer employees

ORS 183.336 - Cost of Compliance for Small Businesses

a. Estimated number of small businesses and types of businesses and industries with small businesses subject to proposed rule.

As defined in Oregon’s Administrative Procedures Act, a “small business” means a corporation, partnership, sole proprietorship or other legal entity formed for the purpose of making a profit, which is independently owned and operated from all other businesses and which has 50 or fewer employees.

Approximately 5 percent of participants in the Clean Fuels Program are small businesses, which equate to about 20-30 participants. They fall into three categories of businesses: local fuel distribution companies, companies that are registered as an aggregator to assist larger companies in reporting data and managing credit transactions, and fuel producers. In addition to aggregators being small businesses, they represent and report on behalf of other companies and organizations, which may also be small businesses.

Some of the specified source feedstock supplying organizations that will be affected by the new attestation requirements may be small businesses, but DEQ does not have the data to estimate how many of those there are that meet the definition.

b. Projected reporting, recordkeeping and other administrative activities, including costs of professional services, required for small businesses to comply with the proposed rule.

The proposed rules may require some small businesses to go through third party verification for the first time, depending on how many credits they generate. Estimates provided to DEQ for our 2019 rulemaking assessing the cost of third party verification of CFP quarterly reports and fuel pathway applications ranged from $17,000 for a simple report to $70,000 for a more complex report or pathway application. Which would put the cost range for validation and verification services now between $20,000-82,000 using the consumer price index to estimate inflation.

Other costs associated with third party verification can include but are not limited to staff time associated with the preparation of, third party verification of, and corrections to their reporting, as well as associated administration and recordkeeping expenses. DEQ does not have information to provide an estimate of these costs.

c. Projected equipment, supplies, labor and increased administration required for small businesses to comply with the proposed rule.

The costs to comply with this rulemaking are largely administrative, and may require some increased labor and recordkeeping costs. Estimates provided to DEQ for our 2019 rulemaking assessing the cost of third party verification of CFP quarterly reports and fuel pathway applications ranged from $17,000 for a simple report to $70,000 for a more complex report or pathway application. Which would put the cost range for validation and verification services now between $20,000-82,000 using the consumer price index to estimate inflation.

Other costs associated with third party verification can include but are not limited to staff time associated with the preparation of, third party verification of, and corrections to their reporting, as well as associated administration and recordkeeping expenses. DEQ does not have information to provide an estimate of these costs.

d. Describe how DEQ involved small businesses in developing this proposed rule.

DEQ took public comment and included representatives from some small businesses and trade groups in the rulemaking advisory committee for this rulemaking.

Documents relied on for fiscal and economic impact

The requirement to list the documents relied on to determine fiscal impact is separate from and in addition to the similar list in the Rules affected, authorities, supporting documents section above.

Document title	Document location
GHG 2019 Rulemaking Notice	Oregon Records Management System
Standardized Regulatory Impact Analysis for 2023-2024 California LCFS rulemaking	https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2024/lcfs2024/appc-1.pdf

Housing cost

As ORS 183.534 requires, DEQ evaluated whether the proposed rules would have an effect on the development cost of a 6,000-square-foot parcel and construction of a 1,200-square-foot detached, single-family dwelling on that parcel.

DEQ determined the proposed rules would have a negligible effect on the development costs to the extent that they affect fuel prices and fuel costs are included in the cost of developing a parcel and dwelling.

Racial Equity

ORS 183.335(2)(a)(F) requires state agencies to provide a statement identifying how adoption of this rule will affect racial equity in this state. Communities that are adjacent to or near transportation facilities and corridors are disproportionately impacted by those emissions and are traditionally lower-income and have a higher percentage of Black, indigenous, and other peoples of color residents. These environmental justice communities have been historically overburdened by transportation emissions and expansion of the program's targets will benefit these most vulnerable Oregonians by decreasing the air pollution to which they are exposed.

DEQ's review of the overall effect of the program in our 2022 rulemaking showed that the program will have modest but positive effects on racial equity by reducing road transportation emissions. DEQ does not believe anything in this rulemaking creates any material changes to the results of that analysis given the limited scope of this rulemaking.

Environmental Justice Considerations

ORS 182.545 requires natural resource agencies to consider the effects of their actions on environmental justice issues.

Environmental Justice analysis

Environmental justice is the fair treatment and meaningful involvement of all people regardless of race, color, national origin, culture, education or income with respect to the development, implementation and enforcement of environmental laws, regulations and policies. DEQ is committed to incorporating environmental justice best practices into its programs and decision-making, to ensure all people in Oregon have equitable environmental and public health protections.

In our 2022 rulemaking, DEQ analyzed the effects of the program over time on racial equity and used environmental justice communities in part as a proxy for racial equity effects of the program. DEQ's review of the overall effect of the program in our 2022 rulemaking showed that the program will have modest but positive effects on environmental justice communities by reducing road transportation emissions. DEQ does not believe anything in this rulemaking creates any material changes to the results of that analysis given the limited scope of this rulemaking.

Non-discrimination statement

DEQ does not discriminate on the basis of race, color, national origin, disability, age or sex in administration of its programs or activities.

Visit DEQ's Civil Rights and Environmental Justice page.