

Clean Fuels Program Rulemaking Advisory Committee #3 Discussion Paper – Additional Proposals for Consideration

The Oregon Department of Environmental Quality (DEQ) is soliciting feedback from stakeholders on the following proposals. While these are all presented as proposals, several have details that are not completely developed, and we welcome feedback on these. Depending on the comments we receive, DEQ may decide to move forward with these proposals or defer them for future consideration. As stated throughout the Rulemaking Advisory Committee (RAC) process, DEQ must consider the resources it will take to implement any modifications to the program. At this time, DEQ is proposing the following updates:

1. Potential changes to carbon capture and sequestration project monitoring, reporting, and verification plans

DEQ's approval of fuel pathways with carbon capture and sequestration (CCS) projects included in their lifecycle relies on incorporating requirements from other regulatory programs, which avoids duplication for the project operator and avoids months of work in the approval process for Clean Fuels Program staff that are already at capacity. The two main other regulatory programs that DEQ has relied on in its approval of these pathways are the Underground Injection Control program, which depending on the state is operated by state agencies or US EPA, and US EPA's Greenhouse Gas Reporting Program (which is separate from DEQ's own program of the same name, which has independent authority under state law).

In September 2025, US EPA [proposed to reconsider their Greenhouse Gas Reporting Program](#). DEQ uses the [Monitoring, Reporting, and Verification \(MRV\) plans](#) approved by EPA in our approval of CCS projects included in fuel pathways, with the main example being the Net Zero Richardton facility in North Dakota. These MRV plans are designed to ensure that there are robust systems in place to ensure that the volume of sequestered CO₂ is understood and to be able to identify and quantify any leaks from geologic storage if they occur. These plans are also used for reporting to the US Internal Revenue Service for the purposes of the 45Q tax credit for CO₂ storage.

While existing facilities have such approved plans, future ones will not. Furthermore, existing facilities will not be able to update those plans with EPA if the repeal moves forward. DEQ does not have the staff resources to review or develop these plans, so we are soliciting comment on possible alternatives to the EPA MRV plans. DEQ is aware of two potential alternatives:

- The plans approved by the California Air Resources Board under their CCS protocol for the Low Carbon Fuel Standard, [which is currently going through a rulemaking](#).
- The ISO standards 27916 and 27914 cover CCS for enhanced oil recovery and geologic storage, respectively. Treasury and the IRS have said that [plans under the standard for enhanced oil recovery](#) can be used for 45Q if reviewed and signed off on by an independent state-licensed engineer or geologist annually.

While we do not currently specify which plans must be followed in OAR 340-253, DEQ is concerned that the repeal will affect our ability to incorporate both current (if the plans need to be updated due to changes on the ground) and future projects. Are there other alternatives than those above? If we use the ISO standard, is there a more specific certification that could be required of those who are reviewing and approving the plans?

2. Expand margin of safety process (OAR 340-253-0450)

Currently in OAR 340-253-0450(10)(f)(F) fuel producers may add a margin of safety during the Annual Fuel Pathway Report (AFPR) or original application certification process. Margins of safety increase the CI score for a pathway in order to protect the producer from going out of compliance if their pathways have increases in their carbon intensity above the 24-month average used to set them.

In the past several years, DEQ has also allowed fuel producers to add a margin of safety to certified pathways and have them re-issued for current and future reporting periods if they determine and inform DEQ they are likely to exceed the originally certified carbon intensity value. We have allowed this because we determined that adding a margin of safety post-certification was a more efficient use of staff and producer time than requiring them to submit a new pathway application given that data is submitted in the AFPR.

DEQ is proposing to expand the margin of safety process to more clearly allow additions outside of the certification process for fuel pathway applications and AFPRs. These margins of safety added outside the AFPR process would be forward applying, not retroactive, and DEQ would still need to determine if illegitimate credits were generated on net for all the reporting periods that the pathway was active – adding the margin of safety after certification can help the producer remain in compliance, but this proposal does not create a safe harbor from enforcement for the producer if illegitimate credits are generated from a pathway.

DEQ proposes the following request process:

1. If a fuel producer becomes aware that it may exceed one or more of its certified CI values, it may submit a letter to DEQ requesting to add an additional margin of safety to its certified values. The request letter must include:
 - a. The affected fuel pathway codes and their currently certified CI values, including any existing margin of safety.
 - b. A detailed description of what is causing the pathways to potentially exceed their certified values.
 - c. The proposed additional margins of safety for each pathway, and the reporting quarter that the producer would like them to take effect.
2. DEQ will review the letter, request additional information if necessary, and determine if it agrees that the additional margin of safety is needed and if the proposed additions are sufficient to prevent illegitimate credits from being generated. If DEQ determines that the margins are insufficient, they may request the producer increase the proposed additions. If DEQ and the producer agree on the additions, DEQ will then issue new fuel pathway codes for these pathways with the additional margin of safety added for any open and future reporting period.

3. Updates to verification rules

Based on our experience implementing the Third Party Verification Program over the last two years, we are proposing to update how verifiers determine if a report should receive a qualified positive or adverse verification statement in two specific situations.

Both when reporting opt-in fuels such as electricity or renewable natural gas, or when claiming exempt uses of regulated fuels, the Clean Fuels Program rules allow for underreporting of fuel volumes. In the case of opt-in fuels, while the rules require accurate reporting, they do not make underreporting a violation because credit generators are not required to report them in the first place.

In the case of exempt uses of regulated fuels, since early in the program the program's rules have made it so that exempt uses must be reported on time and any fuel that could have been claimed as exempt but was not claimed on time is deemed to have been voluntarily included in the program. These rules date back to DEQ's experience implementing the program during the first compliance period and staff being overwhelmed at the annual reporting deadline when many regulated parties requested to reopen all of their quarterly reports to state exemptions for the first time. That was unworkable and went against the spirit of the program's reporting rules requiring all reports to be accurate, true, and complete when submitted.

In both cases, DEQ's rules do not allow for parties to correct their quarterly reports to add these volumes after the fact.

However, in the case of the verification rules, the verifiers are instructed to judge over- and understatements within a 5% threshold. Because understatements cannot be corrected, this leads to a situation where a reporting entity might be issued an adverse verification statement without the ability to fix the errors.

Thus, DEQ is proposing to modify the definition of qualified positive verification statements for the Clean Fuels Program to explicitly include understatements over 5% of the reported volumes for credit generating fuels and exempt use transactions.

4. Reporting updates

We are proposing to add to the deadlines rule that deadlines may be extended due to outages of DEQ's IT systems, given our experience needing to ask the Environmental Quality Commission for a variance following the 2025 cyberattack. Following a finding that the Oregon Fuels Reporting System or a successor system is partially or fully inaccessible, DEQ may extend the deadline for all affected parties to submit any report due under the program, including but not limited to Quarterly Reports, Annual Reports, Annual Fuel Pathway Reports, and Verification Statements. The deadline will be extended to a date that gives registered parties sufficient time to file the reporting after the system becomes operational again.

We are also proposing to clarify our registration requirements for fuel supply equipment (FSE), which are registered with DEQ to avoid double registration of chargers, compressors, and other credit-generating fuel supply equipment. DEQ is proposing to clearly state in rules OAR 340-253-0500(5)(a)(G) and OAR 340-253-0500(5)(b)(F) that Electric Vehicle Supply Equipment (EVSE) must be registered using a manufacturer issued hardware serial number and also that DEQ may allow, in special cases, to register using non-manufacturer issued serial number. FSE is required to be

registered using EVSE manufacturer issued hardware serial number. But, while reviewing FSE registration requests as well as the FSE related quarterly reporting, DEQ has found that there are increasing number of cases where the EVSE is registered using serial numbers that are not issued by the EVSE manufacturer – for example, a serial number or other identifier added by the network providers commonly known as software serial number.

The electricity credit generator eligibility requirements in OAR 340-253-0330 allow chargers may be registered by their owner, their operator, or the network provider for that EVSE in that order of preference, thus there is a risk that allowing the FSE registrations with two different serial numbers for the same device risks double reporting and generation of illegitimate credits. By clarifying that only the manufacturer issued hardware serial number may be used, this risk should be reduced. In special cases, electricity credit generators may register their FSE using non-manufacturer issued hardware serial number but only after receiving prior approval from DEQ. This is to allow for situations where the device manufacturer does not issue hardware serial numbers and the registrant can prove an alternative will sufficiently guard against the risk of double-reporting.

5. Develop calculator for biogas-to-electricity pathway (OAR 340-253-0400)

Currently, fuel producers applying for a biogas to electricity pathway (mainly from dairy and swine manure) must modify the simplified calculator for biomethane from anaerobic digestion of dairy and swine manure to apply for a biogas-to-electricity pathway. As there are more of these types of projects coming online under the CFP, it makes sense to develop this simplified calculator for OR-GREET 4.0.

DEQ plans to develop a stand-alone Tier 1 simplified CI calculator for biogas to electricity pathways, based on the current simplified calculator for biomethane from anaerobic digestion of dairy and swine manure. This calculator will be posted for review on the rulemaking by DEQ prior to the next RAC meeting and a separate comment period for it will be provided.

Non-discrimination statement

DEQ does not discriminate on the basis of race, color, national origin, disability, age, sex, religion, sexual orientation, gender identity, or marital status in the administration of its programs and activities.

For translation and alternative formats, visit DEQ's [Civil Rights and Environmental Justice page](#).