

Clean Fuels Program Improvements 2017

Advisory Committee Charter

Cory Ann Wind



Oregon Clean Fuels Program

811 SW 6th Avenue
Portland, OR 97204
Phone: 503-229-5388
800-452-4011
Fax: 503-229-5850
Contact: [Cory Ann Wind](mailto:CoryAnnWind@deq.or.gov)
www.oregon.gov/DEQ

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

Alternative formats (Braille, large type) of this document can be made available. Contact DEQ, Portland, at 503-229-5696, or toll-free in Oregon at 1-800-452-4011, ext. 5696.

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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 through the Oregon Clean Fuels Program.

The EQC adopted rules for the first phase of the program in December 2012 which consisted of requirements to register, keep records and report fuel imports and transactions. The EQC adopted rules for the second phase of the program with enforced carbon intensity requirements in January 2015.

In March 2015, Gov. Kate Brown signed SB 324 which removed the December 2015 sunset date in the original 2009 statute and allowed DEQ to move forward with implementing the Clean Fuels Program. It also modified several aspects of the program's authorization and directed the EQC to consider additional cost containment measures. Rules implementing SB 324, apart from the consideration of additional cost containment measures, were adopted by the EQC in December 2015.

DEQ's next step is to begin a rulemaking that considers whether additional cost containment measures are needed. The Clean Fuels Program 2017 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 spring of 2017.

DEQ will seek additional formal public comment on the amendments when they are formally proposed, likely in the third quarter of 2017. 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 2017.

Objectives and Scope

Policy Objectives

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

- A methodology to implement the Forecasted Fuel Supply Deferral mechanism
- Updates to the illustrative compliance scenarios from the 2014 study
- Development of new illustrative compliance scenarios for the program
- The need for additional cost containment measures in the program and the design of those measures if they are needed
- Other topics, as identified by DEQ staff

Fiscal and Economic Impact

ORS 183.333 requires that DEQ ask the committee to consider the fiscal and economic impact of the proposed rules including:

- Whether the rules will have a fiscal impact, and if so, what the extent of that impact will be.
- Whether the rules will have a significant adverse impact on small businesses, and if so, how DEQ can reduce the rules' negative fiscal impact on small businesses.

What's Not in Scope

During this rulemaking, the committee will not consider:

- Updates to carbon intensity values except for the purpose of correction
- Updates to OR-GREET 2.0 except for the purpose of correction
- Updates to indirect land use change values
- Inclusion of aviation or marine fuels in the program

Roles

Committee Chair

Mr. Mark Reeve, a former attorney with Reeve Kearns in Portland and former chair of the EQC, has agreed to chair this advisory committee. He served as chair of the Low Carbon Fuel Standards Advisory Committee in 2010, the Clean Fuels Program Phase 2 Rulemaking Advisory Committee in 2014 and the Clean Fuels Program Updates Rulemaking Advisory Committee in 2015.

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

DEQ Facilitator

The facilitator:

- Encourages open, candid and robust dialogue;
- Starts and ends the meetings and agenda items on time;
- Encourages innovation by listening to all ideas;
- Tries not to lose good ideas to the consensus process; and
- Recognizes when the discussion is outside the scope of the meeting and steers the discussion back to the focus of the meeting.

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.

A complete roster of the advisory committee can be found here:

<http://www.oregon.gov/deq/RulesandRegulations/Pages/Advisory/ACFP2017.aspx>.

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

<http://www.oregon.gov/deq/RulesandRegulations/Pages/Advisory/ACFP2017.aspx>.

Committee Meetings

1. All committee meetings will be:
 - open to the public, although the committee can choose whether the public can actively participate in committee meetings
 - advertised on DEQ's webpage calendar two weeks before the meeting at: [DEQ Event Calendar](#)
 - noticed by email to the Oregon Clean Fuels Program [GovDelivery](#) list
 - noticed on DEQ's Facebook/Twitter account
 - accessible via a call-in number or webinar
2. The committee is expected to meet six times through the spring of 2017. All meetings are scheduled from 9:00 am to 4:00 pm unless stated otherwise in the meeting agenda and located in Portland, Oregon
3. Meeting materials and agenda will be posted to the advisory committee webpage. Individual meeting agendas will identify specific topics of discussion where input is being requested.

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.

When DEQ shares information with the group, DEQ will allow a reasonable timeframe for comments.

Travel Expenses

DEQ is able to reimburse any in state, out-of-town committee members for travel expenses, if DEQ approves them in advance.

Public Records and Confidentiality

Committee communications and records, such as formal documents, discussion drafts, meeting summaries and exhibits are public records and are available for public inspection and copying. DEQ does not assume responsibility for protecting proprietary or confidential business information shared during committee or subcommittee meetings. However, the private documents of individual committee members generally are not considered public records if DEQ does not have copies.

Information Exchange

Committee members will provide information as much in advance as possible of the meeting at which such information is used. The members will also share all relevant information with each other to the maximum extent possible. If a member believes the relevant information is proprietary in nature, the member will provide a general description of the information and the reason for not providing it.

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.

Public Involvement

All meetings will be open to the public. The committee can choose whether to allow public input during a committee meeting. DEQ may set aside time for the public to speak.

Once the committee process is complete, DEQ will develop draft rules and conduct a public rulemaking process. That process will include a specified period during which the public can submit comments on the proposed rules. DEQ will also hold a public hearing during which any member of the public can submit written or verbal comments. Individual committee members may provide comments to DEQ on the full draft rule at this time. DEQ may modify the final proposed rules based on public comment. DEQ intends to take a final proposed rule to the EQC for consideration at its meeting .

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

Media Inquiries:

Matthew Van Sickle

Public Affairs Specialist

503-229-6044

vansickle.matthew@deq.state.or.us

Primary Contacts:

Cory-Ann Wind

503-229-5388

wind.cory@deq.state.or.us

Bill Peters

503-229-6901

peters.bill@deq.state.or.us

Alternate Contacts:

Jennifer Flynt

Chief Public Information Officer

503-229-6585

flynt.jennifer@deq.state.or.us

David Collier

Air Quality Planning Manager

503-229-5177

collier.david@deq.state.or.us