

# Oregon Clean Fuels Program Expansion 2022

## Summary

### Rulemaking Advisory Committee Meeting #4

**Date** May 26, 2022, 10 a.m. – 4 p.m.

**Location:** Zoom Webinar

#### RAC Members in attendance

- Maya Kelty, 3 Degrees
- Mark Bunch, BP
- John Thornton, Clean Future
- Victoria Paykar, Climate Solutions
- Nick Staub, Ed Staub
- Jason Heuser, EWEB
- Alex Schay, NW Alliance for Clean Transportation
- Mike Freese, Oregon Fuels Association
- Sam Wade, RNG Coalition
- Jon Constantino, RPMG
- Mason Murphy, Confederated Tribes of Umatilla
- Nora Apter, Oregon Environmental Council
- Jeremy Martin, Union of Concerned Scientists
- Jim Verburg, Western States Petroleum Association
- Floyd Vergara, Clean Fuels Alliance
- Greg Alderson, PGE
- Jana Jarvis, Oregon Trucking Association
- Lindsay Fitzgerald, Gevo
- Michael Graham, Clean Cities Coalition
- Michelle Detwiler, Renewable Hydrogen Association

#### DEQ staff/facilitators in attendance

- Colin McConnaha, Office of GHG Programs Manager
- Cory-Ann Wind, Clean Fuels Program Manager
- Becka Puskas, DEQ Environmental Law Specialist
- Bill Peters, CFP Markets Analyst
- Stephanie Summers, CFP Reporting Specialist
- Jamie Damon, Senior Facilitator
- Gillian Garber-Yonts, Facilitation Team

#### List of handouts and presentation notes

- Agenda
- Presentation
- Draft Rules
- Fiscal Impact Statement



State of Oregon  
Department of  
Environmental  
Quality

#### Oregon Clean Fuels Program

700 NE Multnomah St.,  
Suite 600  
Portland, OR 97232

Program e-mail:  
[OregonCleanFuels@deq.oregon.gov](mailto:OregonCleanFuels@deq.oregon.gov)

Rulemaking e-mail:  
[CFP.2022@deq.oregon.gov](mailto:CFP.2022@deq.oregon.gov)

Program web page:  
<https://www.oregon.gov/deq/ghgp/cfp/Pages/default.aspx>

Agency web page:  
[www.oregon.gov/DEQ](http://www.oregon.gov/DEQ)

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

Time	Topic
9:45 a.m.	Webinar Setup and Login
10 a.m.	A. Welcome and Introductions
10:10 a.m.	B. Committee Business
10:15 a.m.	C. Overview of Draft Rule and Updates
12:00 p.m.	D. Lunch Break
1:00 p.m.	E. Presentation and Discussion: Fiscal Impact Statement & Racial Equity Statement
3:30 p.m.	F. Public Comments
3:55 p.m.	G. Next Steps
4 p.m.	Adjourn meeting

## A. Welcome and Introductions

Jamie Damon, Lead Facilitator, welcomed the RAC members and the audience to the DEQ Clean Fuels RAC Meeting #4. She shared brief instructions on using the Zoom webinar platform, reviewed the meeting agenda, shared an overview of the meeting guidelines, and provided instructions to the public on sharing their comments and questions during the meeting.

Jamie asked the attendees to open a web browser and go to “Menti.com,” to respond to a poll asking them to share their affiliation with the group.

## B. Committee Business

Jamie Damon covered the meeting ground rules and reviewed the RAC #4 Meeting agenda.

Cory-Ann Wind, Oregon Clean Fuels Program Manager, introduced herself as well as the Clean Fuels Program Project Team. She provided an overview of the DEQ Clean Fuels Program 2022 Expansion timeline document and shared a recap of the RAC #3 meeting as well as the 15 written comments that were received.

## C. Overview of Draft Rule and Updates

Cory-Ann introduced Becca Puskas, DEQ Environmental Law Specialist, to provide an update on compliance and enforcement. Becca introduced herself and shared her role. She noted that her department works with Division 12, which are the rules that classify violations and govern civil penalty assessments. She noted that DEQ typically updates Division12 concurrent with changes in underlying obligations.

Becca described the Division 12 Civil Penalty formula, changes to Division 12, and separate violations on slides 14-16 of the [RAC #4 Meeting Presentation](#).

The following are questions and comments received on the topic.

**Question:** On the formula slide, can you clarify what you mean by “mental state”? Is this a subjective evaluation that is turned into a quantitative value?

*Response: It is, but we have different values for the different levels. Zero means we don’t have enough information. The lowest level gets a score of two, and is labeled as constructive knowledge, which means the entity should have known. Negligent gets a score of four and is defined as not meeting a reasonable standard*

of care. The next level is reckless, acting or failing to act with intent or knowledge of the rule. The highest value is flagrant. We do hear arguments about where fall on the scale, and we consider the facts that are presented.

**Question:** Do you have a table that does this?

*Response: Yes, OAR 340-012-0145 shows the details for aggregating and mitigating. Mental state is listed as number five.*

**Question:** I noticed revised ranks for number 12. I want to verify that your group participated in the definitions to maintain consistency. Specifically in Division 12, you have definitions like “misstating” that have been revised.

*Response: We classify the violations. The misstating language is a classification of a violation that is a 253 rule. That edit was to make the language clearer. Please submit comments if you have them.*

**Question:** My questions is whether you participated in that modification.

*Response: I did, we will do a final review before we put these out for public comment. The idea was to get the changes in front of the RAC for review before that point.*

## **Expansion of the Targets**

**Question:** Is there a list of the fuels that transition from clean to regulated?

*Response: If you look at the draft language it is in -0200 and- 0320.*

**Question:** If we were to switch a customer from kerosene to propane, would that generate a credit?

*Response: We are talking about fuels for transportation use. We are likely to see the fossil versions switch to renewable. That would be fossil propane to renewable propane. The renewable would likely be within the targets and generate credits.*

**Question:** How does what constitutes a review vary from what the Department of Administrative Services would do? Are there points outside of this that you would want to do some broadening of the program between now and 2029?

*Response: We talked about this at the last RAC meeting and forgot to put it in the draft rule. Any comments you have for what the proposed review should be are welcome. It is going to continue to be different than the annual fuel supply forecast done by the Department of Administrative Services. They are directed by the legislature. We can be broader and more targeted. We will be asking the commission what they would like us to be reviewing as well. We will be working towards 2028 and looking toward 2035 to see if the assumptions we made are accurate. I think the safeguards in place now will be reviewed as well.*

**Question:** I am looking at the 37% in 2035, can you tell us a little about the philosophy of going to 37% as opposed to a number that would be more consistent with the direction from the legislature. 17% in 5 years is ambitious based on available technology.

*Response: The biggest point of why we propose a target past 25% is due to the existing electrification plans in the state. By evaluating those plans, and the adoption of the Advanced Clean Trucks rule alone, we could achieve 25% CI reduction. The design of the CFP is to incent not only one technology, but other fuels that*

will have a place on the market in the future. When you look at electrification, biofuels, renewable natural gas, and renewable propane, all of those fuels will have roles through at least 2030. In order for those fuels to be incentivized, a more aggressive target was necessary.

**Question:** My thought is that with the program review, the agency can see if these concepts have come to fruition to plan for getting to 2035.

*Response: I think that is fair. As I look at the scenarios, what stands out is the 2027-2029 timeline, that is the period where electrification has not completely taken off and there will be a high demand for liquid biofuels. There is a question about how those fuel productions will ramp up. That is why we are targeting the program review to take place at that time.*

*Response: The compliance scenarios represent a relatively conservative look at what we think fuels can do. We think the 37% is an achievable target. The other intent of the review is to look at targets for 2040 and potentially beyond.*

**Question:** I was wondering if there is a reason the hydrogen fuels under regulated fuels don't have a date yet? If there is a place to mention it later, please let me know. I am thinking about the definition of renewable hydrogen and making sure it is only being created by renewable energy.

*Response: We will see individual pathway applications for producers. Whether they will generate credits or deficits depends on what the CI is.*

**Comment:** Will there be further conversation about targets? I have expressed this in previous meetings and in comments. I want to emphasize that ambition should be the goal here. The proposed targets are feasible, but that should be our baseline. I encourage DEQ to go beyond these targets. We have seen incredible success in the first six years of this program, and those successes go beyond emissions reductions. I continue to urge DEQ and the RAC to maximize the benefits under the program by expanding CI reduction targets to meet our state climate goals.

**Comment:** I am with Airlines for America, the trade association for the major cargo and passenger airlines in the US. We thank DEQ for including the definition for eGSE and assigning the 3.2 EER value in this rulemaking. My role in the RAC meetings have been focused on eGSE. When the draft rules came out, I was stunned to see the proposed changes for table three. When the CFP was first set up, we urged that alternative jet fuel be measured against a diesel baseline. DEQ opted to set a separate benchmark. Under the current table, the benchmark for alternative jet fuel is static for 2024. In 2025 it drops to the same value that is in place for diesel. The benchmarks for diesel and jet fuel are equivalent in 2025. Until now, you have an unlevel playing field to reward renewable diesel over renewable jet fuel. We can assume that the CI of the two are the same as is the case in California. In 2025 you will create a level playing field by having a baseline of 88.87. At that point SAF would be rewarded with the same credits as renewable diesel. We are greatly disappointed to see what was shared. These numbers would worsen the unlevel playing field between renewable diesel and SAF. They are coproduced in the same facility, and you are going to be telling alternative fuel producers to not make SAF. Why would a producer make SAF if it gets more credits from producing renewable diesel? We would urge the department to set up the table 3 benchmarks to create an equal playing field. We have other thoughts that we will share in written comments.

*Response: We are happy to review written comments on Tables 1-3. Thank you.*

**Comment:** I am with the Metro Climate Action Team and am the co-chair of the transportation team. I want to reflect on what another RAC member shared. We are pleased that DEQ exceeded

the 25% improvement goal but would like to see you push beyond the 37% decrease. What I hear DEQ saying is that this is where the market will get us. I think it is important that we push the market.

**Question:** The proposed targets of 37% and 25% rely heavily on electrification. Would DEQ entertain discussion with local public utility commissions to see what generation would need to look like to support the target? Is there a plan to coordinate between DEQ and the energy agencies?

*Response: There is coordination between the agencies and the State of Oregon. DEQ is the lead on regulation but the other agencies support that as far as the cleanliness of the electricity that goes into vehicles, the capacity of the grid, etc. I wouldn't call it an official plan, but there is strategic collaboration between the agencies.*

**Comment:** I would like to support going beyond the 37%. I think we can be confident in doing so if we move towards electrification. Car companies are making strong commitments to up sales by 2030. That type of commitment exists throughout the industry, and I encourage DEQ to take that into account.

**Comment:** We are supportive of the reduction goal but are hoping for more details on implementation. We support previous comments related to jet and diesel benchmarks. If those benchmarks are not similar, it favors the fuel that generates more credits. That means that renewable diesel will be favored by the Oregon market.

**Question:** I would like some discussion around how the CI scores for the different hydrogen pathways were calculated in -8010 Table 4, and if it means that all but two pathways would be deficit generating.

*Response: That will be discussed as we get to the hydrogen slide.*

## **Additions and updates to existing provisions**

Cory-Ann shared that the next presentation will share a high level overview of the additions and updates to existing provisions. She shared that this is not a final product, and that the goal is to share an understanding of the direction DEQ is heading to have a discussion around the fiscal impacts of the changes during the afternoon portion of the meeting. She noted that the high-level discussion can be found in the slides, but the details are in the [Draft Fiscal Impact Statement](#) posted on the DEQ website.

## **Hydrogen**

Bill identified the changes to the hydrogen portion of the rule on slide 21 of the [RAC #4 Meeting Presentation](#).

**Question:** For renewable Hydrogen, would all of the CI scores be different?

*Response: There is a lookup table value for each. There is also an application process.*

**Question:** There is a calculation for the CI for hydrogen using the Oregon average grid electricity. I don't see that for charging a vehicle. Is that somewhere else in the statute?

*Response: We update the electricity CI on an annual basis for direct emissions and grid mix. These are emissions associated with mining or other production of the electric fuels. If you look on the DEQ website, you will see the posting each year. The statewide mix is adjusted to about 145-147.*

**Question:** We appreciate that there will be different CI scores. Has DEQ considered separating out the different types of hydrogen in the definition?

*Response: We are happy to take written comments on this. The intent of adding the definition is to have one for the CFP. If there are producers with CI applications, we reach out on the specifics of the fuel pathway. It is a CI program. The goal is to get things down to a single CI number for the fuel being used in the transportation mode. We are happy to look at alternative definitions.*

**Question:** Would the renewable hydrogen being used in book and claim be here?

*Response: We are looking at that for a future rulemaking.*

**Question:** I saw the language on the Bonneville pathway application. One issue I see with it is that there are three Bonneville utilities in Oregon that buy the lion share of their energy from the Bonneville power company, but not all of their energy. I know that the non-federal resources are non-emitting. Does that prevent the three utilities from claiming that pathway?

*Response: Yes. The utilities would just need to submit a fuel pathway application. That would be a relatively straightforward application. There would be parity. We tried to be conservative with the lookup values. The lookup table values make it easier for new fuels to come into the program and provide some assurance.*

**Comment:** I will follow up offline and address this in written comments

## **Advanced Credits**

Bill identified the changes to the Advance Credits portion of the rule on slide 22 of the [RAC #4 Meeting Presentation](#).

**Question:** When will it be appropriate for me to ask someone from DEQ to walk us through two Advance Crediting scenarios? One for zero-emission vehicles, and the other for RNG-fueled trucks & buses?

*Response: Let's take that at the main Q&A section.*

**Question:** For the hydrogen vehicles for advance credits, does that mean that it doesn't matter what the source of the hydrogen is?

*Response: Yes. The higher CI score would generate less credits.*

## **Electricity**

Bill identified the changes to the Electricity portion of the rule on slide 23 of the [RAC #4 Meeting Presentation](#).

**Question:** Green-e is up for its stakeholder review process and published a new version today. Is there communication between DEQ and the Center for Resource Solutions (CRS) on the topic?

*Response: DEQ is not planning on addressing that in this rulemaking. We have had preliminary discussions and will see what the CRS board ends up adopting.*

**Question:** Is it possible that this rule would get finalized and contradict Green-e? My experience on their legacy projects is that they are related to projects under contract, not already approved under their standard. We will follow up with Green-e.

*Response: We will be happy to receive comments on that.*

**Comment:** I share those concerns on the Green-e new standard. We would ask that DEQ looks at addressing those in this rulemaking.

## **Biomethane**

Bill identified the changes to the Biomethane portion of the rule on slide 24 of the [RAC #4 Meeting Presentation](#).

**Comment:** Thank you for these changes, these help to modernize tracking around biomethane. This improves the ability of RNG and biomethane to be used outside of direct use in CNG and ONG vehicles. We encourage you to continue to look at renewable hydrogen provisions and use of biomethane as a process fuel or input into the production of liquid fuels.

**Question:** On the calculator for biogas electricity, there is a guidance document on the CFP website. Is there a model somewhere else on the website?

*Response: We will make sure that is available.*

## **Additional Credits**

Bill Identified the changes to the Additional Credits portion of the rule on slide 25 [RAC #4 Meeting Presentation](#).

*No questions or comments.*

## **Credit Transfers**

Bill identified the changes to the Credit Transfer portion of the rule on slide 26 [RAC #4 Meeting Presentation](#).

*No questions or comments.*

## **Exempt uses**

Bill identified the changes to the Exempt Uses portion of the rule on slide 27 [RAC #4 Meeting Presentation](#).

*No questions or comments.*

## **Housekeeping**

Bill shared additional updates on slides 28-31 of the [RAC #4 Meeting Presentation](#). The following are questions and comments shared by the RAC members and the public.

**Question:** Why in table 4 is the directly connected renewable resource powering the production of hydrogen higher than the renewable resources directly connected to producing electricity?

*Response: Lets discuss that offline.*

**Question:** On the exempt fuel changes, I am curious if DEQ could make a form that the fuel supplier can hand to the customer? For example, a bulk fuel customer who uses fuel for agriculture. Once the fuel is delivered, whose responsibility is it that the fuel is used for an exempt use? Who does the obligation pass on to?

*Response: On the first one, we have talked to fuel suppliers about that. We can think about it, I don't think that will require a rule change. For your second question, the fuel producers are the ones who are responsible. We do not expect ongoing tracking. The requirement is on the fuel producer, because they are the entities in our program. If there is good documentation that is where we look to make sure it is being sold to an exempt use.*

**Question:** What was the reason for changing the requirements in rule?

*Response: In 2017-2018, we were getting close to the first compliance deadline and we had over a dozen entities that wanted to file for exempt fuel uses. We were trying to work through documentation requirements and claim exempt uses from years back. After that, we said we would not allow correction requests. That also gives life to the volunteer exclusion rule.*

**Comment:** We will have comments on EERs. We are working on tier 2 EER applications. Some of the language you are proposing limits innovation for clean technologies. You are putting a broad definition in the rule. There are situations in California where we hear that we need to use a conservative value, even if it is not appropriate.

**Question:** There are new definitions in the record keeping section and a new definition of a renewable energy certificate. I was hoping you could expand on the purpose for adding those.

*Response: That was an oversight from last time and we are moving to clean it up. We went off an existing definition. That was also where our modifications for environmental attributes came from, which look at renewable electricity and book and claim.*

**Question:** Did DEQ consider registration of fuel supply equipment? I am referring to reporting, not just on the EV charger, but a meter that only supplies EV chargers.

*Response: Please submit comments on that. The intent was not to exclude that. Using a single meter has been allowed in the past.*

**Question:** I am interested in the definition of natural gas common carrier pipeline. It says that any common carrier has to be directly or indirectly connected to Oregon. Can you elaborate? I am concerned about the indirectly connected part.

*Response: The intent was to keep the current geographic availability. We don't want the pipe to have to go directly into Oregon.*

**Question:** Is that in relation to SB98 or is it in other current CFP rule languages?

*Response: Our rules predate SB98.*

**Question:** When will it be appropriate for me to ask someone from DEQ to walk us through two Advance Crediting scenarios?

*Response: We haven't extended the rules. Let's discuss that offline if you have questions.*

## **D. Presentation and Discussion: Fiscal Impact Statement & Racial Equity Statement**

### **Fiscal and Economic Impact Statement**

Cory-Ann shared a presentation on the Fiscal and Economic Impact Statement (FEIS) and the Racial Equity Impact Statement (REIS) on slides 34-50 of the [RAC #4 Meeting Presentation](#). She shared that ORS 183.333-336 requires DEQ to ask for the RAC's 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 impact on small businesses; if so, then how DEQ can comply with ORS 183.540.

Cory-Ann provided an overview of updates with no and minor fiscal and economic impacts. She shared a breakdown of the direct cost of complying with the proposed targets, the benefits of reducing tailpipe air pollution, the indirect cost or cost savings to fuel consumers and the cumulative impact of the rulemaking.

The following are questions and comments received on pieces of the rule identified as having fiscal impacts.

**Comment:** From the perspective of the NW Alliance for Clean Transportation, making DEQ's Advance Crediting program eligible for battery-electric and hydrogen fuel cell technologies only is inconsistent with DEQ's statement that Oregon's CFP is, "technology-neutral." I will consult with my Board, but I suspect that we may push back on this aspect of the rulemaking.

### **Expansion of the Targets**

**Comment:** Going back to the costs, did you list the per gallon costs at the different levels?

*Response: That is coming up in the next couple of slides.*

**Question:** I am curious about the table of CFP credits that brings the costs down, will that be addressed later? I appreciate the slide that quantifies the benefits from reducing tailpipe air pollutants.

*Response: The fuels can be used for on road and off-road sources. We had an inventory of light, medium and heavy-duty vehicles as a part of the inputs into the scenarios. We have no assumptions as to how much fuels go into each.*

**Comment:** I agree with you that this is probably significantly underestimating benefits. The off-road sector lags behind the on-road sector with respect to after treatment technologies, therefore you would expect greater benefits from diesel PM reductions and other pollutants. We have done studies quantifying the benefits of those reductions, and I would expect that your benefits from getting diesel PM reductions through liquid biofuels and other technologies would be significantly greater.

**Comment:** On the CCM price, even if you assume a low interest rate, your CCM in 2035 will be about \$300. That brings your potential max cost up to \$1.6 billion. You may want to consider just using a low inflation rate to compare. As far as small business impact, some of the fuel stations are

operated by small business operators. Are those being factored in and the impact of the rule as it would lower demand? Some of those stations may convert to electrification. The liquid demand will go down and those businesses will be negatively impacted by the program. The dollars are moving around from the regulated entities to the credit generators. What could happen is that those dollars go from Oregon to out of state or country businesses.

*Response: We will touch on small business impacts later. Thank you for your comments.*

## **Indirect Costs**

**Comment:** The savings for renewable diesel isn't from B5. If you are talking about \$1 off the market price of renewable diesel, that is around 40-80 cents above B5. That means that the consumer will pay considerably more. I want to make sure that we are not saying that renewable diesel is a dollar cheaper than B5. As consumers do move away from B5 or B10, you are shifting demand to another product. When you do that, that other product's price goes up as well. Just moving away from current fuels does not mean you decrease volatility.

**Comment:** I took this slide as an "offset", not a "you will get lower prices at the pump". I didn't have any confusion about that. Having been a regulator, I know the difficulties and challenges of putting this together. I have not delved into the numbers yet but wanted to comment on the more balanced approach as opposed to just cost here. I know the cost calculation is standard, but the other part of the equation regarding the benefits of CFP credits in terms of offsetting what prices might be, that is often a missing part of discussions in other states. I know that these are difficult to project but, we appreciate the balanced look at cost and offsets.

**Question:** I want to second Mike's comments in terms of the realities of the marketplace. As we talk about indirect cost, where are we looking at needing to purchase EV and electrical infrastructure to support the EV dominant program?

*Response: I did not consider that as part of this analysis. I think it gets tricky because we are looking at the impact of the effectiveness of the proposed rulemaking. For example, the Advanced Clean Trucks rule is a regulation that has already been adopted, in that adoption the cost has been considered. Those costs are not addressed here because they are addressed in a different document. I think that is something we should consider with our light-duty electrification assumptions. I did not address those costs for electrification.*

**Question:** My focus has always been how we get from here to there. I have been thinking about what the best way to get there is, and I think these are things we need to consider. I have heard a lot of comments about higher goals, but in the world of making things work, this is a question in that direction.

*Response: A lot of times the credit generation on the electricity side exceeds the amount of electricity itself. We assume that that goes to offset the value of a vehicle or infrastructure.*

**Question:** I am struggling with where the renewable and biofuels will be available. I am curious which areas will be underserved by these fuels. We have plants on the very eastern side of the state that will have to pay more to get to Portland to avoid out of state costs. There has been no talk during these meetings of the cost of infrastructure to bring these fuels to the disadvantaged parts of Oregon. We built a terminal in anticipation of this, but it is extremely costly. If you are close to Portland or Eugene these are readily available, but if not, it is costly.

*Response: We did not look at geographic variability, we looked at the state as a whole and consumption of fuel as a whole. What you see now is not enough demand in the state. In the future, I think there will be a continued constraint on the fuels statewide. There are two things going, first an expansion of production and supply. Second, the expanded targets will amplify the revenue of credits that will offset the higher cost of fuels.*

**Comment:** I think a lot of production will come online. I know there will be product, but I don't know where it will be. It would be nice to see a map of future infrastructure. Another concern is the low temperature on the eastern side of the state. The numbers use arctic grade fuel, and that is not what will be available here.

**Comment:** I think we will need to figure out how to expand infrastructure to make alternative fuels available to folks outside of Portland and Eugene. As credit prices go up, who pays for the credits? Is it a cost shift onto other fuels?

*Response: For something like renewable diesel, it is the importer of the product that generates the credits. It is those credits that offset the cost to comply.*

**Comment:** It is the gasoline drivers that are paying the cost for those credit prices. I think everyone needs to understand who is paying what and where it is going.

*Response: I would add that the credit generation is not isolated to the diesel pool. There are options on the gasoline side as well. There is credit generation there that can bring down the obligation to the regulated parties, especially on the light duty pool with the shift from gasoline to electricity. That is a transfer of the value from the charger companies.*

**Comment:** If you continue to use gasoline you are limited. My understanding is that the opportunities for gasoline are more limited compared to renewable diesel.

*Response: I think that is fair. The technology keeps changing as well as the CI on the Ethanol side. There are other things that can continue to lower CI of ethanol.*

**Comment:** They don't seem to be at the same scale.

*Response: I think there is very large capacity in the ethanol industry.*

**Comment:** I operate freight and we use renewable diesel for about 90% of our operations. The cost difference is only regional. East of the Cascades I can't get access. In Portland, I pay the same price as petroleum, but in the winter it is cheaper to use renewable diesel. There are nuances based on region, but it is just not available in a ready amount in Oregon. As a real-world user, it is the same price, but the benefit is only there in the Portland region.

### **Cumulative Impact of the Rulemaking**

Cory-Ann shared a summary of the cumulative impact of the rulemaking on slide 50 of the [RAC #4 Meeting Presentation](#).

**Question:** I wanted to echo the appreciation for this presentation. It seems like the takeaway is that the economic benefits are extremely conservative. There is the 84-87 million in health benefits, but that doesn't calculate the cumulative benefits or the higher health benefits in the interim years while the older and dirtier diesel engines are on the road. It also doesn't capture the health benefits and cost savings from reductions and other criteria pollutants. It doesn't quantify reductions in pollutants

beyond the tail pipe or other economic benefits, like job creation, investments, or waste reduction. I appreciate the inclusion of the \$916 million and benefits that are calculated from the federal estimate of the social cost of carbon. But really, this is still an underestimate, especially when you consider the hundreds of lives lost, thousands of homes and buildings burned, agricultural production losses, and loss of business days, all in just the past two years. On the cost side, we heard that these are extreme overestimates. Even with the over and underestimates, the benefits offset the highest estimate of compliance cost. I know there was some discussion around the benefits of price reduction for cleaner fuels as well as electricity having less volatility. Is that captured in the FEIS?

*Response: I would say that is more of a qualitative statement.*

**Question:** I am monitoring the CFP and the CPP for the league of women voters in Oregon. On page 11 you had a comment that says, “CPP regulates tailpipe emissions, CFP regulates lifecycle emissions. Modeling indicates that the proposed 37% reduction in life cycle greenhouse gases in 2035 would equate to almost exactly the 50% reduction in tailpipe greenhouse gases required now by the Climate Protection Program.” One of these is based on 2015 and the other is 2019. There was also a statement that there are a number of different paths. Do we have a minimum or maximum number of paths for what percentage you will be getting to compare to the CPP?

*Response: Happy to take this conversation offline.*

**Question:** The east side of the state currently wants to be a credit generator, but because product is not available, we will be generating deficits. If it is not available due to region, is there a mechanism for that?

*Response: There is not a safeguard for that situation as the program is designed. Outside the situation where statewide there is not a supply of the product, there is a point where the supply is available, but at a cost. If there is a need to expand the accessibility of a product, we need to think about at what point it makes sense to pay that cost if the alternative is to buy credits on the market.*

**Comment:** No there are no safeguards for geographically disadvantaged areas, but the program will incentivize marketers like myself to spend millions to hopefully get the infrastructure to be able to provide it for ourselves.

**Comment:** There will also be an opportunity for producers to get fuel to market. With the proposed targets, there is incentive for producers to get fuel to the eastern side of the state. Having an increase in the carbon reduction in the program will be a mechanism to get fuel to the eastern side of the state.

Cory-Ann shared an overview of the impact to the public, the impact to agencies and government, the impact to DEQ and the impact to large and small businesses on slides 52-56 of the [RAC #4 Meeting Presentation](#). The following are questions and comments received.

**Question:** We support the adjustment. Do you think the process could be automated in the future?

*Response: This is working with Kiara and the body of applications we get. We have a sense of the fuel pathway applications. We have an idea who would be subject for verification. There is another bucket of pathway holders that are not verified.*

**Comment:** We are supportive of this because it gives credits for performance, but we don't want a logistically challenging process

**Comment:** Small fuel drivers would be disadvantaged. Smaller drivers would not be able to get the renewable and biofuels to be credit generators. Big drivers would be able to steal customers and beat smaller businesses on quotes. I am referring to petroleum and renewable fuels.

*Response: If you were seeking to move off of B10 or E5, you would have a decreased ability to have access?*

**Comment:** If you are a smaller driver, you only have access to what is at the RAC or what others will sell to you. Drivers in our area can't get the higher blends unless we sell to them.

*Response: Can you mitigate that?*

**Comment:** Short of making it available at more RACs in more places not really. I don't see a way around it. If there are any other drivers here, I'd like to hear their perspective. It disadvantages folks who can't invest in infrastructure.

*Response: Please let us know if you have ideas.*

**Comment:** I wonder if there is an ability to look at this more geographically, which we have asked for in the past. Assuming what you can get in Portland or Eugene is the same as eastern side of the state is not the right assumption.

**Comment:** There is still only B5 available in Eugene. If you want a B20 you go to Portland or blend it yourself.

**Comment:** We will go back to our folks and see what the options are. If DEQ can help us understand the regional side of this that would be helpful.

*Response: I am thinking about whether there are infrastructure projects that can be built to help. At some point, we still have a supply issue. If there is adequate supply, more regional infrastructure could help.*

**Comment:** On the supply side, is there something that attracts supply that would help trigger some issue for small businesses? If you don't have access, you are buying B5 which is cheaper, but you are also paying for the credit price which will go up. I think supply is the issue, but I don't know what the best approach is here. I will work with Nick and others on that.

**Comment:** I think there needs to be an analysis of how many fuel stations you have in state today, how many you need by 2035, how many will shut down, and how many will need to transition to different fuels. I think it is worth looking at the long-term impact to the fueling infrastructure in the state.

*Response: I have colleagues in DEQ who work more closely with the gas stations, and I know those conversations are happening. I know there is a lot of discussion about how and when that happens.*

**Comment:** I think that is the right question and something we have talked to members about. There are gas station owners who will have trouble competing when there are not enough customers. The exact number is still unclear, but it will depend on the assumptions. Even if you have a branded station, it doesn't mean they are owned by Chevron.

## **Racial Equity Statement**

Cory-Ann shared that requirement ORS 183.335(2)(a)(F) as amended by HB 2993, requires state agencies, when providing notice of a rulemaking, to provide a statement identifying how adoption, amendment or repeal of the proposed rules will affect racial equity in the state. She shared that this is a new requirement and

DEQ is asking the RAC for input on how adoption of this rule may affect racial equity in the state. She provided an overview of DEQ's assessment of racial equity and racial equity impact, and then shared the draft Racial Equity Impact Statement on slides 58-61 of the [RAC #4 Meeting Presentation](#). The following are questions and comments received.

**Comment:** One of the racial injustices is how heat is affecting communities. Considering the added burden on electric grid, it is likely that there will be more black outs and brown outs. This program alone might amplify that portion of the problem.

**Comment:** I really appreciate these slides. I almost don't want to sugar coat the cost to low-income residents. It is more than just a delay in the transition. This is a high-cost transition. I am not saying it outweighs the benefits. I didn't feel that there was a clear statement on the negative impacts. My comment is on the limited but significant negative impacts with regard to racial inequality.

**Comment:** I have been frustrated by how the benefits have been calculated. I don't agree that this program will create the same level of benefits. I represent the Oregon Fuels Association and we are responsible for a lot of the emissions reductions in Oregon. I wish it was a bit more straight forward with regard to how benefits were calculated. With the new CPP rules, there will be significant emissions reductions that will augment the CFP.

**Comment:** There are a couple of notes related to the electricity system and growing demand for EV. The electric utilities have planned for the growth of demand and that is done under the supervision of the Oregon Public Utility Commission.

**Comment:** We appreciate the work that went into the racial impact statement. We understand that communities of color are disproportionately impacted by climate change. We referenced the disproportionate effects of climate change before; we will provide more specific comments in written form. We think it is related to the benefits that will come in investments and public health benefits and protections.

**Comment:** On the benefits side for environmental justice (EJ) communities, we found that to the extent that programs like CFP and LCFS drive higher volumes of alternative fuels, these fuels across the board are cleaner with respect to exhaust emissions and serve the heavy-duty sector. Unfortunately, EJ and disadvantaged communities are located near high freight and emission sites. We do have some quantifiable data to provide. You will get benefits disproportionately to people being exposed to pollutants. Biodiesel, renewable diesel, and Renewable Natural Gas will produce lower emissions and will benefit people who are located close to the high emission sites.

## **E. Public Comments**

**Comment:** I want to commend DEQ for the Racial Equity Impact Statement. Yesterday was the two-year anniversary of the murder of George Floyd. It is commendable that DEQ is doing its part. I would like to request more details on how DEQ intends to proceed with the commendable goals of 37% CI reduction. There are a lot of details already accounted for. I am looking for how DEQ intends to proceed with including renewable diesel and SAF as it works hard to reduce CI among transportation fuels. Thank you for today's session.

**Comment:** I am with E-mission Control. What will happen to aggregators contacted with fleet owners who do not operate forklifts?

*Response: We will have an effective date for that and then we will also provide a discussion of how any changes of who the credit generator is will be handled, through registration of fuel supply equipment. It will also depend on the effective date, which we haven't determined yet. We will also provide guidance on any changes. If we do make this change, we want to know how it will affect things and if we got it right.*

**Comment:** I am a community member. I have been following experts on this topic. My request is that if it is ever determined that this extra work and infrastructure is all for nothing and the earth's climate was going to change any way, that the money be returned to the people. In the future, if we enter into a cooling period, could all this money collected be returned to the people?

*Response: I would point to the discussion today about the local air quality benefits of this program that are co benefits of the program. We are primarily targeting GHG emissions, but there are benefits we get at a local level. I think we have demonstrated that there are subsequent local benefits.*

**Comment:** Let's look at California which has cleaner air than before. Is this about climate change or air pollution? If the air gets cleaner, then maybe the money needs to be returned.

*Response: I don't have any response to that comment, thank you for it.*

**Question:** Looking at the draft language and the proposed change to the forklift owner versus fleet operator, it looks like the option to also designate someone as an aggregator was struck. Does that mean that only the operator can claim credits, and if not, then nobody can? Could you clarify?

*Response: We have general language in -0100 that says that credit generators can designate and aggregator. There has been some inconsistent drafting of references in -0300, so we have decided to take out the references from the 300 series. We left the statement in -0100 that says that any credit generator can designate a higher rate so forklift aggregators can designate the aggregator.*

**Comment:** I want to comment that we are going from one extreme to another. I am wondering if there is more of a middle ground where parties can meet in the middle such as in Washington.

*Response: We found that sorting out whether one forklift was being reported twice took a lot of administrative effort. We heard that the operator has the best information and is also the one who is most often paying for the electricity. We have concerns about renting or leasing equipment.*

## **F. Next Steps**

Cory-Ann requested that any further public comments be submitted by end of day Friday, June 10. She shared that the notice of proposed rulemaking will go out the week of June 27. Cory-Ann reminded the attendees that the public hearing will land in mid-July, and that the rules will go before the Environmental Quality Commission on September 22-23, 2022.

Cory-Ann and Colin McConnaha thanked the RAC members and the audience for joining in the conversation. The meeting was adjourned.

## **Meeting Chat**

Gillian Garber-Yonts: <https://www.oregon.gov/deq/rulemaking/Documents/cfp2022m4Pres.pdf>

Jon Costantino: I am RPMG's alternate and will be covering for Jessica for at least 30-40 mins

Gillian Garber-Yonts: Hi Jon, you have been given panelist permissions as a RAC alternate. Thank you.

Gillian Garber-Yonts: Meeting Materials: <https://www.oregon.gov/deq/rulemaking/Pages/cfp2022.aspx>

Gillian Garber-Yonts: Menti Code: 2217 2784

Marc Ventura: Production as production of fuels

Michelle Detwiler: I will have to jump off at 3 today. Thanks.

Victoria Paykar: Agree with Nora's statements on the targets. Thanks.

Michelle Detwiler: I would like some discussion of how the CIs for the different Hydrogen pathways were calculated in 8010 Table 4 and if it means that all but two pathways would be deficit generating.

MAN ALTAHER: regarding 340-253-0640 (2)(e) annual submission of proof of completion of final verification or validation statement from Green-e. How do we submit this proof to DEQ CFP?

Vincent Morales: Hi, I'm Sam Wade's alternate on the RAC (RNG Coalition). Sam has to step out at 1-1:30pm. Happy to step in as panelist to represent RNG Coalition while he's away. Vincent Morales

Gillian Garber-Yonts: Hi Vincent, I will promote you now. Please let us know when Sam is back and we will set you back as an attendee. Thank you.

Jana Gastellum: Hi, I'll be OEC's representative starting at 1:15. Thank you!

Gillian Garber-Yonts: Hi Jana, thank you. I will get you promoted when we start back up.

Jon Costantino: We don't want Cory 'punchy'

Marc Ventura: We cannot see the document

Marc Ventura: ok

Marc Ventura: Thanks

Gillian Garber-Yonts: FIS: <https://www.oregon.gov/deq/rulemaking/Documents/cfp2022m4FIS.pdf>

Gillian Garber-Yonts: All materials can be found on the DEQ CFP Program Expansion 2022 Page here: <https://www.oregon.gov/deq/rulemaking/Pages/cfp2022.aspx>

Bill Peters: The definition of small business in ORS 183.310(10)(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.

(b) "Small business" does not include a coordinated care organization as defined in ORS 414.025.

Vincent Morales: My colleague Sam Wade is back. You can move to the attendees

Vincent Morales: \*move me

Gillian Garber-Yonts: Thank you.

Alex Schay: From the perspective of the NW Alliance for Clean Transportation, making ODEQ's Advance Crediting program eligible for battery-electric and hydrogen fuel cell technologies, only, is inconsistent with ODEQ's statement that Oregon's CFP is, "technology-neutral." I will consult with my Board, but I suspect that we may push back on this aspect of the rulemaking.

Mark Bunch: Hi Gillian, Brent Pace tagging back in for me. I'll be switching back at 3pm PDT. Thx

Alex Schay: Since I can't see the charts that Cory-Ann is referencing, can you please help me understand the potential maximum credit price impact on the cost of a gallon of E10 gasoline and a gallon of B5 Diesel in 2035? Thanks.

Victoria Paykar: Hi Jamie, sorry I forgot to mention this morning that I have to hop at 3pm for another meeting.

Jason Heuser: Hi Folks, I apologize I have to drop off. Good conversations thanks everyone. Jason, EWEB

Jamie Damon: Thanks Jason!

### **Alternative formats**

DEQ can provide documents in an alternate format or in a language other than English upon request. Call DEQ at 800-452-4011 or email [deqinfo@deq.state.or.us](mailto:deqinfo@deq.state.or.us).