The Oregon Clean Fuels Program Fiscal Advisory Committee will operate within the parameters of this Charter.

I. Background

The Oregon Clean Fuels Program is a component for several important Oregon initiatives including Oregon's energy, transportation, and climate protection action plans. Approximately one-third of Oregon’s greenhouse gases come from transportation sources, and providing cleaner fuels will help reduce these emissions and create a more efficient transportation system. Oregon's 10 Year Energy Action Plan, transportation planning process, and the Global Warming Commission’s Roadmap to 2020 all cite lower carbon transportation fuels as being a critical piece of Oregon's future.

This committee is being convened for the purpose of providing input on the fiscal impact to regulated parties of complying with the registration, record keeping and reporting requirements of DEQ’s draft clean fuels rule. If adopted by the Environmental Quality Commission, these requirements would be in effect beginning in 2013. The information collected will be used to design the fuels reporting system ultimately used in the program, help DEQ design its technical assistance program, and, in conjunction with other information, help inform the decision of whether or not to move forward with a future carbon reduction phase of the program. If DEQ recommends moving forward with the next phase of the program, we will convene a separate fiscal advisory committee at that time to provide input for that new rulemaking.

The 2009 Legislature authorized the Environmental Quality Commission to adopt low carbon fuel standards in order to reduce greenhouse gas emissions from Oregon’s transportation fuels. DEQ intends to propose rules this summer, now called the Oregon Clean Fuels Program, and will seek public comment on the proposed rules in August 2012. The proposed rules will be considered for adoption by the Commission in December 2012.

The Oregon Clean Fuels Program will be implemented in two phases - a reporting phase beginning in 2013, and a later carbon reduction phase. Phase 1 will require Oregon fuel producers and importers to register, keep records, and report the volumes and carbon intensities of the fuels they provide in Oregon each year. Phase 2 will require regulated parties to reduce the average carbon intensity of gasoline and diesel fuel they provide in Oregon to meet the clean fuel standard for that year. Regulated parties can select the strategy that works best for them to meet the requirement, such as providing more
biofuels, natural gas or electricity, or by purchasing clean fuel credits from suppliers of lower carbon fuels.

Phase 1 is intended to provide DEQ time to develop its technical assistance program for regulated parties and to fully develop reporting protocols and systems. It will also allow DEQ to gather valuable data about Oregon’s transportation fuels that will help inform DEQ and decision makers about the feasibility of moving ahead with the next phase of the program. If DEQ recommends moving forward to propose Phase 2 of the program, the following would have to occur:

- The Oregon Legislature would need to remove the 2015 sunset that currently applies to HB 2186.
- The Commission would need to adopt rules to commence Phase 2 of the Oregon Clean Fuels Program. DEQ would initiate a new rulemaking process, including new advisory committees to gather new input on the design of the Phase 2 rules and their fiscal and economic impact.

The proposed rules being considered for adoption in 2012 include language covering both phases of the program, but Phase 2 will be deferred until the further action described above occurs. It is important for DEQ to show the public, stakeholders, and elected officials what the Oregon Clean Fuels Program would look like in its entirety to provide the basis for future informed discussions. The proposed rule is based on the best information currently available to DEQ and reflects a program design that DEQ believes could be implemented today while achieving its intended greenhouse gas emission reductions goal. DEQ also recognizes that this is an emerging field of regulation, economics and science and that important new information will likely emerge in the next few years that could significantly influence the future design of the program.

II. Purpose of Fiscal Advisory Committee

DEQ is forming this fiscal advisory committee in accordance with the Oregon Administrative Procedures Act, ORS 183.310 et seq. The purpose of the fiscal advisory committee is to ensure that DEQ has reasonably characterized the financial scope and consequences of its rule concept for establishing the registration, recordkeeping and reporting requirements under Phase 1 of the Oregon Clean Fuels Program.

III. Scope

This fiscal advisory committee will be asked to review and comment on DEQ’s draft Statement of Need and Fiscal and Economic Impact. The Committee’s purpose will be to focus on the costs associated with Phase 1 of DEQ’s proposal for the Oregon Clean Fuels Program. DEQ will be seeking Committee input as to whether DEQ has identified these costs and impacts with reasonable accuracy, with a specific emphasis on any fiscal impact to small business.

1 DEQ’s economic analysis of an Oregon low carbon fuel standard provided information on the macro-economic impacts and benefits of an Oregon LCFS program design, but did not provide details on the costs of complying with the reporting requirements under the rule. Therefore, DEQ has convened this fiscal advisory committee to gain additional information on those specific fiscal impacts.
To facilitate this review, the following questions are provided to offer direction for the Committee, but are not intended to limit the discussion or analysis.

- Will Phase 1 of the proposed rules have a fiscal impact?
- Has DEQ reasonably estimated the one-time and on-going costs of registration, recordkeeping, and reporting that would be required to comply with the Phase 1 requirements?
- Has DEQ reasonably identified the universe of businesses or other entities that would be affected by the Phase 1 requirements?
- Would the proposed Phase 1 rules have a significant adverse financial impact on small business and, if so, are there ways to mitigate the impact while still meeting the purpose of the proposed rule pursuant to ORS 183.540? (Note: Under ORS 183.310, the term “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.)

IV. What is NOT Covered in this Review

This fiscal analysis does not cover the:

- Policy aspects of the draft rule;
- Any macro-economic issues associated with the Oregon Clean Fuels Program as a whole; or
- Costs associated with implementing Phase 2 of the draft rule.

Comments on the program design and other policy aspects of the program can be made separately at any time to DEQ staff and during the public comment period of the rulemaking process. A macro-economic study of the impact of a clean fuels program implemented in Oregon was commissioned for DEQ’s Low Carbon Fuels Advisory Committee in 2010. The economic analysis and final report are available at http://www.deq.state.or.us/aq/committees/advcomLowCarbonFuel.htm. The fiscal impact of Phase 2 will be reviewed by a separate advisory committee if DEQ recommends moving forward to propose Phase 2 of the program with a future rulemaking.

V. Process

The Committee’s discussions and input will be carefully considered by DEQ in forming its draft rule. The rule will also be available for broader public review and comment as part of DEQ’s formal rulemaking process.

Meetings. It is anticipated that the Committee will meet on May 30, 2012 from 1:30 pm to 4:30 pm at the DEQ Headquarters office.
Facilitation. The meeting will be facilitated by Mark Reeve of Reeve Kearns PC as a third-party neutral facilitator. The facilitator will run the meetings in accordance with this Charter.

- **Note:** This process is not mediation, and therefore, is not confidential. Committee documents, such as formal documents, discussion drafts, the meeting summary, and exhibits are public records. Committee communications are not confidential and may be disclosed. However, the private documents of individual members and the Facilitator, generally are not considered public records if DEQ does not use or retain copies.

- **Staffing.** DEQ staff will prepare briefing materials. DEQ will provide the Committee with a working draft of the Statement of Need and Fiscal and Economic Impact approximately one week in advance of the meeting. The Facilitator will lead the Committee in a discussion designed to complete its duties. DEQ staff will record the meeting and produce a meeting summary. A meeting summary will be available to Committee members and the public within 1-2 weeks after the meeting.

- **Membership.** DEQ has invited the following people to serve on this fiscal committee to represent potential regulated parties subject to the Phase 1 requirements, opt-in parties who may voluntarily report, general business interest, and environmental interests. DEQ’s invited committee members are:

  - Elizabeth Howe, Oregon Business Association
  - Lance Woodbury, Carson Oil
  - Nick Economides, Chevron
  - H. Daniel Sinks, Phillips 66
  - Gavin Carpenter, SeQuential-Pacific Biodiesel
  - Brandon Gimper, Columbia Pacific Bio-Refinery
  - Joe Regnery, ZeaChem
  - Marion Haynes, Portland General Electric
  - Gary Bauer, Northwest Natural
  - Amy Hillman, Ecotality
  - Jana Gastellum, Oregon Environmental Council

- **Ground Rules.** By their participation on the committee, each member commits to the following:
  - Treat everyone and his or her opinions with respect;
  - Allow one person to speak at a time;
  - Comment constructively and specifically;
  - Engage in honest, respectful, constructive, and good faith discussions;
  - Please stay focused on the specific topics for each meeting.

- **Decision Making.** DEQ will finalize the draft Statement of Need and Fiscal and Economic Impact associated with this rulemaking, based on comments provided
by the Committee. DEQ will not seek formal consensus or majority/minority opinions from the committee, nor will the Committee be asked to vote. DEQ will ask the Committee to provide their comments, perspective, and expertise related to cost and fiscal impact. DEQ is not seeking comments from this committee on the policy aspects of this rulemaking. Comments on all aspects of DEQ’s proposal will be sought during the formal public comment period once DEQ initiates rulemaking in August 2012. Once the fiscal advisory committee adjourns, committee members may make any subsequent comments they wish for the record during the rulemaking public comment period.

VI. Public Input

The Committee meeting will be open to the public and have a limited time set aside on the agenda for public comment. A summary of public comment received will be prepared for the record.

DEQ will also be inviting formal public comment during the rulemaking period, tentatively scheduled to begin August 1, 2012. Formal public notice of this rulemaking will be conducted in accordance with state law. Adoption of this rulemaking by the EQC is planned for December 2012.

VII. Related Documents

The necessary documents can be found on the Oregon Clean Fuels Program website at http://www.deq.state.or.us/aq/cleanFuel/meetings.htm, including:

- Draft – Proposed Rulemaking Statement of Need and Fiscal and Economic Impact
- Working Draft - Rules

VIII. DEQ contacts for Clean Fuel Standards

- Cory-Ann Wind, Lead AQ Planner for Oregon Clean Fuels Program, 503-229-5388, wind.cory@deq.state.or.us

- David Collier, Air Quality Planning Manager, 503-229-5177, collier.david@deq.state.or.us