
Date: July 9, 2021

To: Environmental Quality Commission

From: Richard Whitman, Director
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Subject: Item G: Update on Climate Protection Program rulemaking (Informational)
July 22-23, 2021, EQC meeting

Why this is important

DEQ is developing proposed rules for consideration by the Environmental Quality Commission that would establish Oregon's Climate Protection Program (CPP). The CPP is being designed to include enforceable and declining limits on major sources of greenhouse gas emissions in Oregon. The proposal will include emissions reductions from the use of transportations fuels (Oregon's largest source of emissions), and the use of other liquid and gaseous fossil fuels (including natural gas and propane as well as heating oil, diesel and petroleum) in residential, commercial and industrial settings.

Earlier this month, DEQ convened the seventh and final meeting of the Rules Advisory Committee. Throughout these meetings, the RAC has provided extensive feedback on policy design options, draft rule language and an evaluation of the fiscal implications, significantly affecting the proposals being developed.

This purpose of this agenda item is to share key policy design issues with the commission before the draft rules are circulated for broader public comment in early August.

Prior EQC involvement

DEQ has been briefing the commission on development of this program regularly since work began a year ago. We intend to continue providing regular updates so that the commission is prepared for the full package to come before the EQC in December of this year.

Early program development

DEQ is using a three-phase approach to develop the new Climate Protection Program. Program development is informed by extensive public engagement, including active engagement with environmental justice and impacted communities. This first phase was an initial assessment and public engagement on the process DEQ and EQC should use for the program development.

The second phase included a series of meetings and technical workshops for the public and stakeholders to share their goals, interests, concerns and ideas on the scope of the Climate Protection Program. Hundreds participated in these program scoping activities in 2020. One result was the identification of three program goals:

- Achieving significant emissions reductions,
- Prioritizing equity, and
- Containing costs

Rulemaking activities

The third phase is the formal rulemaking process, which DEQ began at the start of 2021. The rulemaking advisory committee, approved by the EQC in December 2020, met seven times in 2021. The seventh and final RAC meeting was on July 8. Meeting attendance has averaged 150 attendees.

DEQ anticipates releasing a draft proposed rule in early August, followed by a public comment period and public hearings, including one hearing before the commission. DEQ intends to request commission action in December 2021, so that the program, if approved, may start in 2022.



As part of this rulemaking effort, DEQ is working with community-based organizations to support engagement with environmental justice and vulnerable communities in addition to their participation on the advisory committee. Staff meet regularly with environmental justice interests to support development of a proposed program centered on reducing emissions in ways that promote equity across Oregon's communities.

The [advisory committee roster](#), work plan, meeting and associated materials

are available on the [rulemaking website](#), linked at the end of this report.

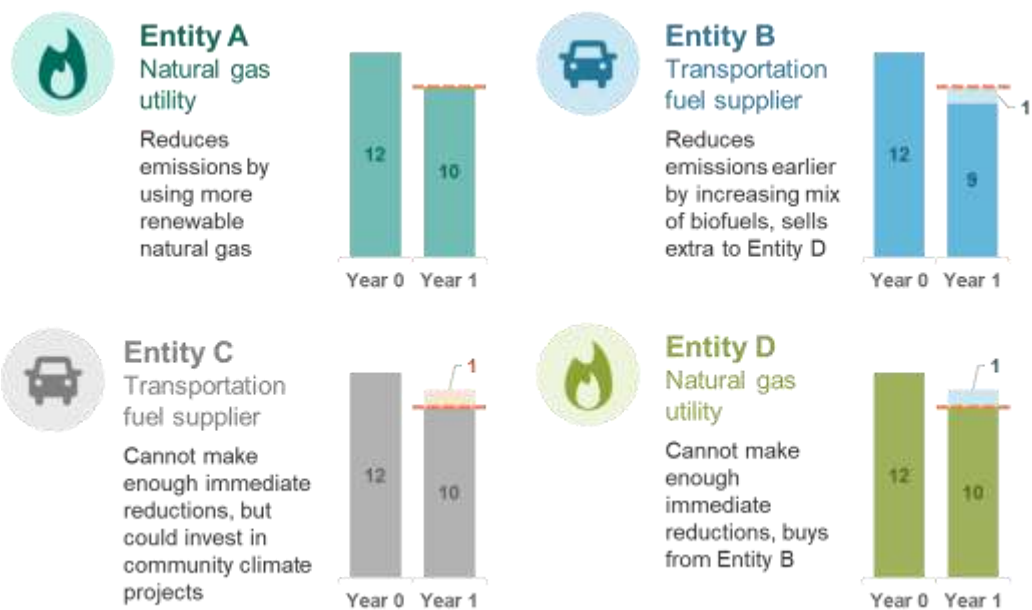
**Climate
Protection
Program
framework**

DEQ envisions that each year the Climate Protection Program will establish an overall limit or emissions cap, and this cap will decline steadily towards a long-term target and possibly interim targets. The draft rules apply this limit on entities importing fossil fuels for use in Oregon. This would apply to nearly all end-uses of fossil fuels, including gasoline and diesel, as well as propane and natural gas.

DEQ would enforce this overall cap across the many companies importing these fossil fuels by requiring each company to turn in “compliance instruments”¹ in quantities that cover all the regulated emissions associated with the fossil fuels they supply. DEQ would distribute compliance instruments in amounts corresponding to the overall cap each year, and thereby assure that the total regulated emissions from the fuel suppliers do not exceed the cap.

The following figure demonstrates how four different entities might comply. The four entities reduce emissions and/or use the program’s potential flexibility mechanisms to comply. These flexibility mechanisms could include multi-year compliance periods, banking, buying, or trading instruments, or receiving credits for Community Climate Investments.

In this example graphic, below, DEQ has 40 compliance instruments available



¹ One compliance instrument permits supply of regulated fossil fuels that, when those fuels are combusted, emit one metric ton of greenhouse gases (in CO2 equivalence).

to distribute to four regulated entities. Each entity receives 10 compliance instruments from DEQ and all emitted 12 metric tons last year.

This framework sets enforceable limits on emissions, but doesn't specify how regulated entities reach these limits. This can create cost savings and encourages innovation in achieving significant emission reductions. Additionally, this framework leverages and (to a significant degree) relies on multiple federal, state and local greenhouse gas reduction and energy efficiency programs as some of the pathways by which demand for (non-renewable) fossil fuels will be reduced. Examples include the Clean Fuels Program, vehicle standards, and building code requirements.

One important proposed element of the program is Community Climate Investments. The concept is to provide regulated fossil fuel suppliers with a option, within limits, to meet their obligations to reduce greenhouse gas emissions by paying a set price per unit of emissions to pay one or more third parties. The third party(ies) will use these revenues to fund investments in vulnerable communities in Oregon to reduce their reliance on fossil fuels. The proposed CCI element will require documentation of greenhouse gas emission reductions commensurate with the portion of the compliance obligation that is met by the CCI payment. At the same time, CCIs will be designed to provide benefits and co-benefits to communities most vulnerable to climate change and air pollution in urban and rural parts of Oregon. Finally, the CCI component of the program provides a means of mitigating potential cost spikes during periods of imbalance between fossil fuel demand and supply for particular energy suppliers.

Another proposed program element is treatment of greenhouse gas emissions from several small groups of industrial facilities. The first group is facilities with significant process emissions (separate from emissions from the use of natural gas), such as semiconductor fabrication and cement production. For these facilities, opportunities to reduce process emissions are limited due to the nature of the product(s) and limits of technology. The second group is industrial facilities that receive natural gas from outside of gas utilities' distribution networks, typically via a direct connection to an interstate gas pipeline. Under the proposed rules, both of these groups would be subject to a "Best Available Emission Reduction" regulatory approach. Each stationary source would conduct site-specific assessments to determine technologies and practices that are commercially available for their facilities to reduce onsite GHG emissions. DEQ would use these assessments and additional information it collects to make determinations on what types of required actions a stationary source might have to implement to reduce GHG emissions.

Key issues	<p>The following key issues have emerged in design of the Climate Protection Program:</p> <ul style="list-style-type: none">• Interim (2035) and 2050 cap levels, and their relation to existing legislative goals and the goals in EO 20-04.• The scope of GHGs under the cap. DEQ is not proposing to include emissions from the use of electricity in Oregon, or from the generation of electricity in Oregon that is used out-of-state.• Effects of the caps on the cost of gasoline, diesel and propane, and how the caps will work with respect to regulated natural gas utilities. Equity and environmental justice consequences of the program, both positive and negative.• Applicability and thresholds for regulated entities - What companies should be regulated under CPP?• Distribution of compliance instruments - Within the overall limit on compliance instruments how should DEQ distribute instruments to the covered entities?
EQC involvement	<p>There is no request for EQC action at this time. DEQ will continue to update the EQC on the development of the Climate Protection Program, and we will ask the commission to hold a public hearing on the proposed rules in the fall of this year. DEQ expects to present the final proposals to the EQC at the end of 2021.</p>
Supporting materials	<ol style="list-style-type: none">1. Rules Advisory Committee membership roster: https://www.oregon.gov/deq/Regulations/rulemaking/RuleDocuments/GHGCR2021ACRoster.pdf2. Rulemaking website (including comments received to date on the proposed program): https://www.oregon.gov/deq/Regulations/rulemaking/Pages/rghgcr2021.aspx

Report compiled from program information