

Greenhouse Gas 2019 Rulemaking

Summary

Rulemaking Advisory Committee Meeting #1

Sept. 11, 2019, 9 a.m. to 4 p.m.
Portland State Office Building Room 1B
800 NE Oregon St.
Portland, Oregon 97232

List of attendees

Committee Members in Attendance (for all or part of meeting):

- Zach Baker, Climate Solutions
- Andy Bauer (alternate for Bill Edmonds), NW Natural
- Daniel Lee, Schnitzer Steel Industries
- Kent Hartwig, Renewable Energy Group
- Jennifer Joly, Oregon Municipal Electric Utilities Association
- Alisa Kaseweter, Bonneville Power Administration
- Tess Milo (alternate for Dan Kirschner), Northwest Gas Association
- Sharla Moffett, Oregon Business & Industry
- Danelle Romain, The Romain Group
- Alec Shebiel, Umatilla Electric Co-Op (alternate for Ted Case of Oregon Rural Electric Coop Association)
- Elysia Treanor, Portland General Electric
- Tom Umenhofer, Western States Petroleum Association
- Kathryn VanNatta, Northwest Pulp and Paper Association
- Sam Wade, RNG Coalition
- Mary Wiencke, PacifiCorp
- Jana Gastellum, Oregon Environmental Council

Committee Members on the Phone:

- Kevin Booth, Avista
- Darren Engle, Blue Star Gas
- Jessica Hoffman, Renewable Products Marketing Group, LLC
- Any McDonald, Cascade Natural Gas Corp
- Scott Peters, The Williams Companies, Inc

DEQ Staff in Attendance (for all or part of meeting):

- Ali Mirzakhali, Air Quality Division Administrator
- Michael Orman, Air Quality Planning Manager
- Jeffrey Stocum, Air Quality Technical Services Manager
- Matt Davis, Office of Policy and Analysis
- Colin McConnaha, Air Quality Planning
- Cory-Ann Wind, Air Quality Planning, Clean Fuels Program
- Elizabeth Elbel, Air Quality Technical Services, GHG Reporting Program
- Lauren Slawsky, Air Quality Planning
- Jackson Dougan, Air Quality Technical Services, GHG Reporting Program
- Stephanie Summers, Air Quality Planning, Clean Fuels Program



State of Oregon
Department of
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Quality

Greenhouse Gas Reporting Program

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

- Emil Hnidey, Air Quality Division

Summary of Advisory Committee Input

DEQ thanks the participants in the meeting for their attention throughout the day. The dialogue was constructive and will help DEQ develop their next proposal. Members expressed:

- Concerns about proposed timelines for implementation.
- Concerns about the timelines to submit written comments of the proposed materials.
- Interest to provide user-testing of new reporting systems proposed by DEQ.
- Concerns regarding the interaction of DEQ and EPA reporting deadlines.
- Concerns over the availability of accredited verifiers
- Encouragement that DEQ will consider data and information confidentiality when proposing new reporting rules and requirements for third-party verification.

Agenda Item: Welcome and Introductions

Cory-Ann Wind, facilitator, opened the meeting. Division Administrator Ali Mirzakhilili welcomed and thanked advisory committee members. Cory-Ann asked those in the room to introduce themselves and on the phone.

Agenda Item: Committee Business

Cory-Ann ran through the charter, roster, and other rulemaking resources. There were no questions.

Colin McConaha provided background and scope of rulemaking, bringing attention to the 2009 legislatively-adopted statutes to collect greenhouse (GHG) emissions data to track progress towards emission reduction targets and better inform policy making. Colin also walked through the meeting agenda and the proposed timeline for this rulemaking.

Cory-Ann reminded the advisory committee to keep in mind the fiscal and economic impact of the proposed rule changes as discussions advance through the day, keeping the next meeting in mind.

Agenda Item: Streamlining Reporting: Greenhouse Gas Reporting Program (Division 215) and the Clean Fuels Program (Division 253)

Cory-Ann and Elizabeth Elbel presented on DEQ's proposed revisions to the GHG reporting program (GHG RP) (OAR 340-215) and the Clean Fuels Program (CFP) (OAR 340-253), emphasizing that the changes are aimed at streamlining the reporting between the two programs as there is significant overlap. Details are provided in slides 8-12.

Questions/Comments

- Members sought more detail on new definitions and changes to existing definitions to create alignment between the programs.
- Members appreciated the concept of streamlining reporting between the programs and the move to a single system, but wanted to better understand the details.

Response: DEQ was able to further clarify the proposed changes at the meeting and also offered to host a separate meeting with fuel suppliers to further discuss how to handle changes and clarify the streamlining aspect, which was of interest to the members.

Agenda Item: Modify the Greenhouse Gas Reporting Program (Division 215)

Elizabeth presented on DEQ's proposed revisions to the GHG RP. Details are provided in slides 13 – 32.

Questions/Comments

- Members expressed concerns and questions regarding reporting deadlines versus verification deadlines and how they interact with EPA deadlines, EPA data updates, and DEQ enforcement actions. Members also raised whether or not the changes would really result in streamlined reporting for reporters.

Response: DEQ requested that reporters think about these concerns as they review the proposed rule language and also in terms of fiscal impact of the rule, with the reminder that these concerns and topics will be part of continued conversation through the rulemaking.

- Members commented that the proposed rules would benefit from the inclusion of additional definitions such as thermal energy and outside of facility boundaries and asked for more information on why require reporting of additional information about electricity generating and cogeneration units.

Response: DEQ intends to revise the draft rules to include more definitions and described the additional information reporting requirement as informative for data analysis and could aid in the development of improved emission factors.

- Members sought clarification on how to report information on multiple natural gas suppliers for the same year and asked if DEQ was intending that sources would recalculate emissions from combusted natural gas separately by each supplier.

Response: DEQ intends to revisit the draft rules to ensure the reporting of this additional supplier information is for quantities of fuel delivered by each different supplier for a given year, but emissions will still be calculated using the same total quantity methodology as is already required.

- Members sought further clarification on the new requirement for information about natural gas suppliers.

Response: DEQ clarified that this would allow for improved data checks and prevent double counting. The proposed requirement is meant to result in reporting of very basic information (such as company name) about who supplied gas to the source, regardless of whether it be from a utility or marketer or otherwise.

- Members were interested in better understanding why reporting for biomass-derived fuels was being clarified in rule.

Response: DEQ is trying to provide more clarity and transparency in how calculations must be done.

- Members sought clarification on the fuels covered in the scope of reporting.
- Members were interested in aligning reporting for large end users with EPA's definition and threshold.
- Members commented that gas from interstate pipeline is sent to a delivery point but that the reporter may not have information on end users beyond that point.

Response: DEQ will further analyze this in the rule writing to ensure it is account for and to try to find a way to report information appropriately.

- Members commented that for natural gas transmission, the only subpart W source currently not being reported to DEQ would be emissions from the pipeline itself (i.e. maintenance-based blowdowns).
- Members asked whether or not petroleum pipeline within Oregon would be required to report here?

Response: DEQ will continue to investigate and better understand the systems within Oregon that would be subject to this requirement and intends to develop a white paper for further information.

- Members sought clarification on why DEQ was requesting information from BPA on load served outside of Oregon.

Response: DEQ clarified that we are not seeking this information, which is why COUs are also required to report their total sales in Oregon so that DEQ use this information to get at just the portion used to serve Oregon load.

- Members asked to clarify the proposed unspecified emission factor of 0.428 metric tons of carbon dioxide equivalent per megawatt hour and how it relates to methods currently used by DEQ and other Oregon state agencies.

Response: DEQ described the origin and development process of this emission factor and how it is far below what comes from coal and that the application of this number would be a change from what is currently used for unknown sources of power, which has been an annually-updated emission factor known as the net system mix.

- Members sought clarification on if the specified source emission factor developed for BPA would only apply to what is being used in Oregon instead of full BPA mix.

Response: DEQ clarified that this is not the intention and will be sure to clarify this in rule if needed.

- Members were interested in possibly having the ability to measure specified market (such as the EIM) emission factors and for later use.

Response: DEQ appreciates the interest and relevance of these continuing conversations, for this rulemaking, transfers from the EIM will be considered unspecified sources and therefore that emission factor should be applied.

Agenda Item: Propose Requirements for Third-Party Verification (Division 272)

Lauren Slawsky led the presentation and discussion of the proposed 3PV requirement. Details are provided in slides 33 – 65.

Questions/Comments

- Members sought clarification on the credits and deficits threshold exemption for annual fuel pathway (CI) reports and quarterly transaction reports.

Response: DEQ aims to align with California's threshold for deferred reporting and will work to improve the rule language here, if needed. In regards to credit generators, such as electric companies, if they have credits that have been given to them by DEQ, then that would not be subject to verification. If it is purely those generating credits, there is the potential that generators would have to get 3PV.

- Members commented that Biodiesel 99 (B99) is treated the same as B100 in California for ease of reporting and that it would be nice if DEQ could categorize it as 100% renewable in Oregon, too.
- Members asked clarification on applicability for emissions data reports. One member asked if 3PV applied to both direct (air contamination sources) and indirect (natural gas suppliers) emitters. One member asked if investor-owned utilities in Oregon who report as electricity system managers and also for permitted air contamination sources would have to do separate verification for each report.

Response: Yes, DEQ's proposal is for any individual report above the applicability threshold to be subject to verification, but DEQ does want to make sure there is not double verification of the same data and will continue to dig into this.

- Members asked why is 3PV needed in addition to EPA QA/QC requirements?

Response: DEQ believes verification provides a different function and type and level of review than these requirements provide but is seeking comment on this.

- Members sought clarification on the requirements of updating reports and correcting errors.

Response: Correctable errors found by verifiers are required to be fixed by the reporter, and any report modifications must be submitted to DEQ before the verifier submits the verification statement by the deadline of August 31. Verification is an iterative process and reporters will have the opportunity to improve the data in submitted reports during the verification period, before the verification deadline.

- Members sought clarification on what reporters can expect to receive from the verifier versus what gets reported to DEQ, and asked if in instances where DEQ has the authority to request document, whether or not that would become public record.

Response: DEQ is requiring the submission of a verification statement. In the case that a verifier finds a potential for an adverse verification statement, the verifier would be required to notify the reporter and also to notify DEQ of this potential and submit a current issues log. Anything provided to DEQ becomes part of the public record, but no documents that DEQ is proposing to be able to request, as seen as needed, would contain data; these documents are summarized plans or reports.

- Members were concerned about the availability of verifiers and stated that not all verifiers would be qualified to verify all sectors. Members were concerned that California verifiers may not have expertise in all industry sectors in Oregon. Members asked if DEQ had received feedback on the California program.

Response: DEQ clarified that in the future DEQ plans to reach out to California for information on training and exams for Oregon accreditation. Additionally Oregon is considering a broader range of verifiers, not just those that are accredited in California. This would allow for additional expertise among the verifiers.

- Members expressed interest in working with a single verifier for longer than 3 years.

Response: DEQ would like to receive comment on the proposed facility and verification term limits.

- Members asked for clarification on why fuel suppliers would need to submit their California reporting and verification statements. What is driving that requirement?

Response: DEQ clarified that this was specifically for pathway approval. The intent is that California verification would be sufficient to meet the needs of Oregon verification for pathways.

- Members asked for clarity on how data corrections would be handled in regards to data that is submitted to EPA, DEQ and a verifier.
- Members expressed some confusion on how requirements varied by sector and want to make sure they understand what is required specifically for each sector.

Response: DEQ will try and structure the requirements to provide more clarity.

- Members asked if DEQ requests documents or emissions factors would that information would become publicly available? Members expressed concern for sensitive business information and emission factors.

Response: DEQ clarified that most emission factors are generally available to the public already. Additionally, third party verification allows regulated entities to contract with verifiers so that sensitive information can be kept confidential. Documents provided to DEQ would most likely be a summation of information. However, DEQ would like comment on concerns regarding confidential or sensitive information.

- Members expressed concern about the 10 year data retention requirement for verifiers and commented that these entities may not have the systems in place to keep data secure. Members asked that DEQ consider that the regulated entity retain the information.
- Members asked for clarity on the motivation for aligning with the California verification cycle for full and less intensive verification. Other members suggested that this may limit the number of verifiers available. Other members commented that this was a benefit to their organization because they participated in both the Oregon and California reporting programs.

Response: DEQ clarified that alignment with California was intended to streamline and reduce the burden to regulated parties who report into both state programs. DEQ asked for comment on alignment with California's verification timeline.

- Members asked if e-tags were required for verification.

Response: E-tags were listed as an example of information that might be used in verification and not a requirement.

- Members asked if company doesn't change ownership or hasn't changed processes, is it common that we would give those sources a less rigorous verification?

Response: DEQ clarified that since the verification body was familiar with the entity there was less risk and the verification would not have to be as in depth. Less intensive verification is common practice in CA and other programs. A member also clarified that entities would still have the same QA/QC of data in a less intensive verification year but may not have facility visits.

- Members asked if natural gas provider information was needed for emissions calculations.

Response: DEQ clarified that natural gas provider information was needed for cross-checking and data analysis.

- Members asked for clarity on the requirement that verifiers provide notice to DEQ 14 days prior to the verification deadline if they are issuing an adverse verification.

Response: DEQ clarified that this was a requirement for the verifier to inform the company not the agency. – no requirement for verifier to notify agency

- Members asked if DEQ would consider making the first year audit of 2021 data a trial run with no potential enforcement actions. Members commented that this would give regulated entities a better idea what needed to be changed or improved prior to enforcement actions.

Response: DEQ ask for additional comment on timelines for verification.

- Members asked if DEQ had talked with CAISO about tracking power and the EIM.

Response: DEQ commented that the agency had not talked to CAISO and there is no need for documentation to show that it came from a specific resource in EIM. All emissions from EIM purchases would be calculated using the default emission factor for unspecified power.

- Members asked what would happen in an instance when a verifier and contracting regulated entity doesn't agree on an error

Response: DEQ's understanding is that this would be worked out between the verifier and the company.

- Members asked how many times a report could be modified and when data was considered finalized. Members asked if enforcement was tied to errors or just reporting deadlines.

Response: DEQ explained that in most instances enforcement was tied to report submission deadlines and not necessarily to error corrections. However, there are provisions for bad actors who may repeatedly submit incorrect data or miss deadlines.

- Members asked how often DEQ issued enforcements for the program.

Response: DEQ explained that we try and work with the entity and have not issued many enforcement actions.

- Members asked if there would be enforcement if we need to correct reports?

Response: DEQ explained that not as long as the verification statements were submitted by the deadline.

- Members asked if verifiers must pay a fee to DEQ to implement the accreditation program.

Response: DEQ explained that the GHG reporting program fees pay for staffing of program, so this would come from those fees.

- Members asked if DEQ will be maintaining a list of approved verifiers.

Response: DEQ explained that it would be maintained on the DEQ website.

- Members expressed concerns over the quick timeline for implementing a verification program and requiring verification so soon after beginning new reporting requirements. There was interest in allowing for more time to both stand up the verification program and work the kinks out of reporting.
- Members expressed concerns over DEQ's bandwidth to stand up a program on such a short timeline and asked where resources for this program within DEQ were coming from, and if reporters should expect to see increased fees in the coming years.

Response: DEQ believes existing resources can be reallocated for the purposes of this program and that DEQ is not proposing any fee changes at this time.

- Members expressed concerns over whether or not there would be a large enough pool of verifiers, especially with specialization for CFP. Members expressed concerns that costs could increase with a small pool.

Agenda Item: Public Comment

There were no additional comments during this time.

Agenda Item: Next Steps

Cory-Ann provided closing comments, reminding attendees to submit comments and feedback to DEQ within the following week.

Meeting adjourned at approximately 4 p.m.

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.