

# GHG Reporting Program 2019 Rulemaking

## Rulemaking Advisory Committee Summary

Nov. 1, 2019, 10 a.m. to 3 p.m.  
Portland State Office Building Room 1E  
800 NE Oregon St.  
Portland, OR 97232

### List of Attendees

#### Committee Members in Attendance:

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

#### Committee Members via Webinar:

- Andy McDonald, Cascade Natural Gas Corp
- Jessica Hoffman, Renewable Products Marketing Group, LLC
- Scott Peters, The Williams Companies, Inc.
- Tom Umenhofer, Western States Petroleum Association

#### Other Persons in Attendance:

- Graeme Taylor, Stantech Consulting
- Susan Mats, League of Women Voters
- Julie Chapman, League of Women Voters
- John Verbura, BP
- Marc Ventura, Phillips 66
- Mark Bunch, BP
- Oscar Garcia, Chevron
- Deacon Liddy, GHD



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Quality

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restoring, maintaining and  
enhancing the quality of  
Oregon's air, land and  
water.*

- Michelle Hirst, GHD

**Other Persons via Webinar:**

- Abbie Krebsbach, Cascade Natural Gas Corporation
- Bruce Kar
- Charles Kennedy, DEQ Eastern Region Bend office
- Darrell Soyars, Avista
- J Olson
- Jason Heuser, Eugene Water and Electric
- Jill Sprenger
- Kari Buppenhoff, Christianson
- Keesha Esqueda, Flint Hills Resources
- Kevin Dodson, Idaho Power
- Kristen Mitchell
- Kristine Marshall
- Laura Cladas
- Lei Zhu
- Marissa Bach, Shell
- Norma Job
- Preston Mann
- Randy Prati, EcoEngineers
- Ryan Pessah, Western Wood Preservers Institute
- Zach Eyler, Ruby Canyon Engineering
- Zach Tyler

**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
- Becka Puskas, Enforcement
- Jackson Dougan, Air Quality Technical Services, GHG Reporting Program
- Stephanie Summers, Air Quality Planning, Clean Fuels Program
- Bill Peters, Air Quality Planning, Clean Fuels Program
- Emil Hindley, Air Quality Division

**Agenda Item: Welcome and Introductions**

Cory-Ann opened the meeting. Ali Mirzakhilili welcomed and thanked advisory committee members. Cory-Ann asked those in the room to introduce themselves and on the phone. Cory-Ann also summarized:

- the agenda for the day
- extension of the rulemaking timeline from January to March 2020
- DEQ extended the comment deadline from September 18 to October 11
- DEQ met with 14 additional stakeholders between RAC #1 and RAC #2

Cory-Ann reminded the RAC to keep in mind the fiscal and economic impact of the proposed rule changes as discussions advance through the day.

### **Questions/Comments**

- When is public comment period? Early December. The public hearing will be in January.
- Does DEQ prioritize comments from RAC members over those who are not? No.
- Can DEQ provide a red line of proposed rule changes since the last RAC meeting? Yes.
- When will Division 12 be released? It is being circulated for internal review and we will post a draft as soon as possible.

### **Agenda Item: Updates to Proposed Rule Changes – CFP Changes & Streamlining Reporting (Div 253)**

Cory-Ann presented on DEQ's proposed revisions to the CFP. Details are provided in slides 6 – 10.

### **Questions/Comments**

- Could an out-of-state biofuel producer that opted into the CFP generate credits? Yes.
- How would this work between a marketer and a producer? The scenario that was given to DEQ was that a marketer who is currently the importer could require through contract that the producers they represent opt into CFP so they would have their own account and be individually responsible for verification as opposed to the marketer being responsible.
- Who are the additional parties that would be impacted by having CFP reporters subject to Div 215? Primarily parties that deal solely in biofuels.

- How many reports are being required to be filed with the state? For CFP, 4 quarterly reports that are automatically rolled up to an annual report. In some cases, that annual CFP report will become the annual GHG report without modification; in other cases, a slight modification might be necessary or the addition of non-CFP fuels in a supplemental GHG report will be necessary.

### **Agenda Item: Modifications to the GHG Reporting Program (Div 215)**

Elizabeth presented on DEQ's proposed revisions to the GHG RP. Details are provided in slides 12 – 22.

### **Questions/Comments**

- Members are confused between the use of multiple similar terms throughout Div 215, Div 253, Div 272, and the permitting rules: designated representative, responsible party, responsible person, reporting entity, regulated party, etc. and not all are defined. DEQ apologizes for the confusion that was caused by having multiple staff editing at the same time. We will clean this up prior to the public notice. Also, remember to check Div 200 which has definitions that apply to all air quality programs.
- Members are concerned that the rulemaking is rushed and is causing confusion in the proposed rules.
- Members questioned whether alignment or staggering deadlines are better for reports and verification statements to be submitted...for responsible parties and for verifiers. A verifier commented that the 2-week delay from California is helpful to them.
- Members questioned whether DEQ intended to require the provenance of all biomass derived fuels...i.e. where all of wood waste is coming from. Suggest this is clarified to avoid this complicating detail. DEQ's intent was not to require this for wood waste; more concerned about liquid fuels.
- Members wondered about how the threshold of 5% change in emissions was established. It seems low, especially for fuels but it may be OK for permitted sources. It is consistent with the EPA threshold for stationary sources. DEQ does not need specific or confidential information to be reported, but rather a general narrative about why the change occurred.
- Members are concerned about confidential business information that is currently entered into EPA's system will need to be reported to DEQ and they are concerned about protecting that confidentiality. DEQ also has a system to address CBI.
- Members asked whether GHG fees apply to fuel suppliers. They do not; they only permitted facilities and there is no proposal to change the fee.

- Members asked how third-party verification would be managed internally at DEQ. What will be different from what happens now? Third-party verification will allow for better review of the larger entities and allow DEQ to focus review on those not subject to third-party verification. This will complement DEQ's internal auditing practices.

### **Agenda Item: Proposed requirements for third-party verification (Div 272)**

Lauren presented on DEQ's proposed revisions to the third-party verification requirements. Details are provided in slides 24 – 43.

### **Questions/Comments**

- Do CFP small importers need to be verified? No, unless they emit greater than 25,000 mtCO<sub>2</sub>e.
- Members observed that in California, that submitting the verification statement is required of the verification body, not the responsible party. Yes, DEQ is requiring the responsible party to ensure the verifier is submitting the verification statement.
- Does the responsible person need to be the name of individual person or can it be an entity? DEQ will clarify this in the next version of the proposed rules.
- Once submissions are given to DEQ, are there deadlines for DEQ to respond? No, but DEQ would strive to be responsive.
- Does DEQ plan to adopt the verifier portal from LRT from CARB? Yes.
- Members pointed out that if there are differences between California and Oregon verification requirements that it will cause complications. DEQ clarified that we are only changing who is responsible for submitting the verification-related documents, not what it is required to contain.
- Members believe that the proposed language for qualifications of verifiers is stronger than California requires. That is not DEQ's intent and we will clarify that in the next version of the proposed rules.
- Where DEQ derive its authority to request information from verifiers? DEQ is asking verifiers to voluntarily comply with the request and that ultimately the responsible party would be responsible if the verifier does not comply.
- Is DEQ currently finding errors in GHG reporting? Yes.

- Since CFP requires reconciliation between business partners, is third-party verification still necessary? Are there still errors? Yes.
- If DEQ is not standing up its own accreditation program, where will the Oregon-specific exam come from? DEQ will develop the exam and all accredited verifiers will need to pass the exam to perform work in Oregon.
- If a verifier is disqualified, will the other affected entities be notified? Will they have additional time to contract with another verifier? Will they be compensated for the lost money? See the proposed rules for re-verification. Recovering costs should be addressed through contract language.
- What is DEQ's plan for reconciliation when EPA is asking for changes? As long as you still submit the data report by the deadline and make changes to your report as required by EPA, you will be in compliance with the DEQ program.
- Members are worried about the timing in the case of a potential of an adverse verification statement. DEQ wants to be notified and have the log submitted to provide us with advance notice of a potential dispute between the responsible party and the verifier. Partially this is a workload planning issue and to identify a situation that might lead to DEQ having to mediate an outcome.

### **Agenda Item: Fiscal and Economic Impact Analysis**

Cory-Ann presented on the fiscal and economic impacts of DEQ's proposed rule changes. Details are provided in slides 45 – 59 and the fiscal and economic impact analysis that is posted on the website. Please note that this analysis applies only to the proposed rule changes and not the entire program. In other words, it applies to the proposed changes to Div 215 and 253 and the entirety of Div 272. DEQ is accepting comments for the next two weeks and is especially looking for additional estimates of what the fiscal impact will be in cases where stakeholders feel that DEQ is not representing the fiscal and economic impacts accurately.

### **Questions/Comments: Impacts from New Reporting Requirements**

- Does slide 48 apply only to entities with new reporting requirements? Yes.
- Changing the recordkeeping requirement from 5 to 7 years will increase more than what DEQ has estimated. DEQ is accepting additional estimates of what the fiscal impact will be.
- For natural gas suppliers, the fiscal impact will probably be in the tens of thousands of dollars. DEQ is accepting additional estimates of what the fiscal impact will be.

### **Questions/Comments: Impacts from Streamlining Fuels Reporting**

- It seems like not many parties will benefit from the streamlining. For those dealing with just CFP fuels, then the elimination of a separate GHG annual report will be the benefit. For those dealing with non-CFP fuels, then they are still submitting 2 reports but it will be less work than 2 separate reports and it will be through a single system instead of two systems.

### **Questions/Comments: Impacts of Third-party Verification**

- Members commented that for larger companies, the systems that are needed to support verification might already be in place and thus not have a significant fiscal impact. However, for smaller companies the fiscal impact might be greater.
- Even for a single entity, the facilities that need to be verified might be far away from each other so there might be higher travel costs.
- For LCFS especially, the cost of verification is influenced significantly by the low supply of qualified verifiers – if there are fewer verifiers it will be more costly.
- Members continued to assert that third-party verification should not be required in the absence of a carbon pricing program. The reason for requiring third-party verification for GHG RP is to ensure that the data is accurate and is not going to impact policy incorrectly because it has not been verified.
- Has DEQ considered any alternatives to requiring third-party verification? For CFP, we haven't since California is already implementing this path and harmonizing on this issue makes sense for the market.
- Could DEQ assess steeper penalties if reporting mistakes are discovered instead of third-party verification? DEQ already has the authority to assess penalties and doesn't think a higher penalty will decrease the likelihood of mistakes when compared to third-party verification.
- Can CFP have third-party verification voluntary and have two kinds of credits – one verified and the other not – which would then carry different values? This would only work if CFP credits were serialized and it would take a significant amount of work to do so.
- Members pointed out that companies have their own self-interest in mind and since they are the ones reporting, how can the public trust that we are getting actual information? Third-party verification can provide good data that the public can trust.
- Has California developed ways of mitigating impacts on small businesses? Unknown, but DEQ addressed this primarily through the setting of the thresholds.

- Can the frequency of verification be lessened if the outcome of the first one is positive? The proposal already includes a provision for a “light” verification for 2 out of 3 years.
- Has a pilot study been done with any Oregon facility that shows improvements due to third-party verification? No.
- For CFP, in addition to the cost of the verifier, there might be an additional cost to buy credits to restore bad credits. Yes.
- Members appreciate that DEQ has taken small businesses into account but it will still affect some small business and they will be outraged by these costs.
- Members stated that DEQ already gets good data from reporters and it will not get better data with verification.

### **Agenda Item: Next Steps**

Cory-Ann provided closing comments, reminding attendees to submit comments and feedback to DEQ by November 15<sup>th</sup>. Meeting adjourned at 3:10 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](mailto:deqinfo@deq.state.or.us).